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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 681

JAMES A. ROBINSON, DECEASED, BY BESSIE L. TALLAFERRO ROBINSON, MYRRH E. MARTIN SNELL, THELMA M. ROBINSON VANCE, RAY M. ROBINSON, JOHN S. ROBINSON, CLARA L. MILLER ROBINSON, GRACE BROWN, MACK R. BROWN, EDWARD R. TALLAFERRO, LUCIAN R. TALLAFERRO, CLAUDE N. BROWN, NANCY R. BROWN, ROBERT BROWN, ORVILLE L. ROGERS, BESSIE BIZER AND ARCHIE V. ANDERSON, FOR THEMSELVES AND THEIR HEIRS,

Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

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Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

The above named Petitioners, by their counsel of record, pray that a Writ of Certiorari issue to review the judgment of the United States Court of Claims entered in the above entitled cause on the 5th day of April, 1965.

Aside and apart from the said judgment of the court entered on April 5, 1965, there was no opinion of the Court of Claims. The court's order or judgment entered April 5, 1965, is set forth in the appendix, infra, pp. 31-32.

JURISDICTION

The judgment of the Court of Claims, as aforesaid, was entered April 5, 1965 (Appendix, infra, pp. 31-32). The petitioners' motion for a rehearing was denied by order of the United States Court of Claims, entered on June 11, 1965 (Appendix, infra, p. 32). The time for filing petition for a writ of certiorari herein was extended to and including the 11th day of October, 1965, by an order of this Court entered on September 8, 1965. The time for filing petition for a writ of certiorari was again extended to and including the 20th day of October, 1965, by orders of this Court entered September 8, and October , 1965. The jurisdiction of this Court is invoked under 28 U.S.C., Section 1255(1).

QUESTIONS PRESENTED

1. Whether the petitioners, in their complaint, allege claims arising from the taking by the United States within the meaning of the Act of August 13, 1946, 25 U.S.C., Section 70(b), 60 Stat. 1050.

2. Whether the rights and benefits accruing to petitioners, pursuant to the foregoing statute, are enforceable in the United States Court of Claims.

3. Whether the provisions of 60 Stat. 1049, et seq. constitute a legislative repeal of "res judicata" issues in respect to petitioners.

4. Whether the defense of statute of limitation may be invoked to bar "claims based upon fair and honorable dealings that are recognized by any existing rule of law or equity," as provided under the said Act of August 13, 1946.

5. Whether the United States Court of Claims has jurisdiction to determine the rights of petitioners to participate in the $14,789,476.16 awarded the Chero-

kee Indian Nation against the United States Treasury Department on September 14, 1961.

6. Whether the contract of employment of attorneys is in substantial compliance of law.

7. Whether the defendant computed the time correctly when alleging that the statute of limitations had run.

STATUTES AND TREATIES INVOLVED

Relevant provisions of applicable statutes and treaties are set out in the Appendix at pp. 33-34.

STATEMENT

The petitioners, a group of identifiable Cherokee Indians, brought an action in the United States Court of Claims to recover (1) for an accounting "for all moneys appropriated by Congress in which the petitioners were entitled," (2) for the restoration to the petitioners, "all the lands, including agricultural, oil and all other mineral rights," (3) that the respondent pay to the petitioners, "damages that have been incurred for the time that the petitioners have been deprived of their lands and the production of said lands," (4) that petitioners "be paid 4% interest as reasonable compensation for being deprived of the use of said properties and monies, as aforesaid," (5) "that allowance be made to petitioners' attorneys for reasonable expenses incurred herein, with attorney fees of ten per cent of the amount recovered," and (6) "for such other and further relief as in the premises they may be entitled."

The allegations of the petition, filed in the Court of Claims, and which gave rise to the foregoing relief sought, are substantially as follows: that the petitioners are an identifiable group of the Cherokee Freedmen established by the treaty of July 19, 1866 (14 Stat. 799, 11 Kap. 942), under which they were given all the

rights of Native Cherokee Indians, and that they are now an identifiable group of individuals within the meaning of the 9th Article of said treaty.

That thereafter the Cherokee Freedmen have continuously been recognized by the respondent and by statute as an identifiable group and dealt with respecting property rights and obligations owed them as members and part of the Cherokee Nation of Indians (30 Ct. Clms. 138; Ct. Clms. 180; 44 Clms. 453).

That petitioners herein are descendants, heirs and successors in interest of the Cherokee Freedmen, who were by the said treaty of July 19, 1866, liberated pursuant to the voluntary act of their former owners, and by law are the descendants and heirs of the free colored persons who were occupying and living in the Cherokee Nation in Indian territory, now the state of Oklahoma, and owned and occupied by the Cherokee Indians at the commencement of the rebellion.

That the petitioners, as such members and citizens of the Cherokee Indian Nation and Tribe, therefore bring this suit under Section 10 of the Act of August 13, 1946:

> "That the individual petitioners, above-named appear and make their claims as individuals and as far as permitted by law, their heirs and successors in interest, who may be found to be entitled to participate in any judgment which may be recovered by the Cherokee Indian Tribes, or Cherokee Freedmen, and in any property or money to which they are entitled."

That petitioners:

> "Use as successors in interest of the Cherokee Freedmen and as Rejected Cherokee Freedmen similarly situated who are or/and as representatives of all Cherokee Freedmen of the same class."

Petitioners further alleged in their petition that the proceeding is brought pursuant to the Act of Congress passed October 1, 1890 (26 Stat. 636, 1 Kp. 372, ap-

proved by the Act of August 13, 1946 (60 Stat. 1050). "An Act to create an Indian Claims Commission, to provide the powers, duties and functions thereof, and for other purposes." That petitioners' claims accrued prior to said Act and have not been adjudicated.

It is further alleged in the petition that the respondent by treaties, Acts of Congress and decisions of court, has recognized the interest and title of the Cherokee Freedmen inclusive with the Cherokee Nation and ratified and confirmed their claims to the lands occupied and possessed by them, providing that any sale, if made, must be to the United States (14 Stat. 799).

That within the time prescribed by law, pursuant to the said treaty of 1866, the Cherokee Freedmen remained and established themselves in the Indian Nation as adopted members of the Cherokee Tribe. That they in every way became an integral part of the Cherokee Indian Nation.

That Congress in 1888 and 1889 authorized a roll to be made of Cherokee Freedmen within the meaning of Section IX of the treaty of 1866. And that pursuant to said statutes (25 Stat. 608, 994) the "Wallace Roll" was prepared. That thereafter, on October 1, 1890, Congress conferred jurisdiction on the Court of Claim to hear and determine "the just rights in law and equity — of the Cherokee Nation under the provisions and stipulation of Article Nine of the aforesaid treaty." (26 Stat. 636.) Recognition was thereby given to the Cherokee Freedmen as a class with the right of filing a claim through the Court of Claims against the Cherokee Nation and the United States to recover all monies, lands and rights due them under the said treaty.

That in pursuance thereof the Court of Claims took jurisdiction of the claims of said Freedmen and decided (30 Ct. Clms. 138, 180, Feb. 3, 1896) that the

Freedmen to whom the Freedmen referred were those who were living in, or who had returned to the Nation within six months after the promulgation of said treaty, and their descendants and and that all others were excluded from the benefits of said treaty.

That thereupon the Secretary of the Interior was ordered to appoint a Commission to make a roll of those persons so entitled. That the court further decreed (and it was so directed by Congress, October 1, 1890, 26 Stat. 631) that those Freedmen became citizens of the Nation equally with the Cherokees, equally interested and lawfully entitled to equally participate in the common property of the Cherokee Nation, and to share equally in the distribution of $8,500,000.00. That by direction of Congress, this sum was distributed equally to the legal residents of the Cherokee Nation, which included the Cherokee Freedmen so enrolled. That thereby and at all times thereafter the Cherokee Freedmen were recognized and treated by the United States as legally adopted members of the Cherokee Indian Nation.

That the award rendered by the Indian Claims Commission against the United States Treasury Department, Fiscal Service, Bureau of Account, Budget and Administrative Accounts, Branch on the 14th day of September, 1961, in the amount of $14,789,476.16, was authorized to be paid by the Indian Claims Commission to citizens of the Cherokee Nation, whose names appeared on the 1897 Tribal Roll, are the persons to share in this fund, including their descendants; and that all of the petitioners herein were members of the 1897 roll, but are not to share in said funds. That respondent is now estopped from denying that the said Freedmen were members and citizens of said Tribe.

The petitioners further alleged that the respondent, during all of the times described above maintained a fiduciary relationship and guardianship over the said

Freedmen and their rights, the same as was exercised by it over the Cherokee Indian Nation. That all of said rights were under the supervision of the Secretary of the Interior.

The petition further averred that by the Act of March 3, 1893 (27 Stat. L. 612, 645, ch. 209) the Commission to the five civilized tribes was created, and on June 10, 1896 (29 Stat. 321) that Commission known as the Dawes Commission, was directed to enroll the citizens of the respective tribes. That the Dawes Commission provided: "that the rolls of citizenship of the several tribes as now existing are hereby confirmed," and the Commission should "add thereto the names of citizens whose right may be conferred under the act." That accordingly the said rolls were submitted to the Secretary of the Interior for approval. That by the Act of June 28, 1898 (30 Stat. 495) known as the Curtis Act, Congress gave the further following instructions to the Commission:

> "Sec. 21, That in making rolls of citizenship of the several tribes, as required by law, the Commission to the five tribes * * * shall make a roll of Cherokee Freedmen in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896 (30 Ct. Clms. 138 180).

It is next alleged in the petition that on April 9, 1901, the respondent entered into an agreement with the Cherokee Nation of Indians for the allotment of their lands, the manner of enrollment of the citizens of the said Cherokee Nation, by which it was specifically agreed that "such rolls shall be made in strict compliance with the provisions of Section 21 of the Act of Congress of June 28, 1898." That the foregoing agreement was approved by Congress on March 1, 1901, 21 Stat. 848, 1 Kap. 715, 724. That likewise "the strict compliance provision" was embodied in the Act of July 1, 1902 (32 Stat. 716, 1 Kap. 787).

That by the Act of April 26, 1906 (34 Stat. 137, 3 Kap. 196) Congress provided for the final disposition of the affairs of the Five Civilized Tribes, in directing that the Commission be terminated, and that all books, records and files be turned over to the Secretary of the Interior with authorization to complete the rolls and to include only those persons whose names appeared upon any of the tribal rolls, whose applications were made prior to December 5, 1905, and gave the said Secretary until March 4, 1907, within which to carry out those directives, at which time his jurisdiction in that respect ended.

It is next averred that the said Commission and the Secretary of the Interior, as agents and representatives of the respondent, entered upon their duties prescribed by Congress, but in violation of the trust reposed in them, by administering said trust in a discriminatory and fraudulent manner against the petitioners and their ancestors, in refusing to accept and consider the membership rolls of the said Freedmen authorized by Congress and the Court of Claims. That without notice or warning, they illegally and without authority entirely eliminated these petitioner from the tribal rolls, and/or refused to accept their applications for allotments of lands and payments of money to which petitioners were lawfully entitled. That as a result of which the petitioners were deprived of their property and lawful right to participate in the property of the Cherokee Tribe, for which respondent should account to petitioners.

That lastly, the petitioners alleged that in furtherance of the said unlawful and fraudulent acts of respondent's agents, the petitioners became confused and bewildered, and suffered loss and were deprived of their properties and monies which Congress and the court intended for them.

That the petition then details the description of the lands of which they have been deprived. Said descriptions appear on pp. 28-29 of the Appendix.

The Petition is set out in the Appendix from page 19 to page 31.

That thereafter, and on March 4, 1964, the respondent filed its Motion for Summary Judgment in the United States Court of Claims.

That thereafter, and on March 4, 1964, the respondent filed its Motion for Summary Judgment in the United States Court of Claims.

That the petitioners filed their answer to the said Motion for Summary Judgment on December 8, 1964.

The respondent filed its reply to petitioners' answer on January 15, 1965.

The petitioners filed their memorandum in reply to respondent's reply on March 15, 1965. That thereafter on the 5th day of April, 1965, the United States Court of Claims entered its order granting the respondent's motion for summary judgment and thereby dismissed the petition of the petitioners. That thereafter the petitioners filed in said Court of Claims their request to review the findings of that court on April 26, 1965.

That thereafter, and on June 11, 1965, the United States Court of Claims entered its order denying petitioners' request for the court to review the findings of the court.

That by virtue of the errors committed by the United States Court of Claims in dismissing the petition of the petitioners, the petition for certiorari herein is prosecuted.

REASONS RELIED UPON FOR GRANTING THE WRIT

The outstanding reason why this petition should be granted is the seriousness of the lack of liberal construction accorded pertinent statutes dealing with In-

dian affairs, by the Indian Claims Commission and the United States Court of Claims, especially in respect to the present claims of the petitioners. This, coupled with the crying need for a final decision fully explicating this Court's views on the construction of the provisions of the Act of Congress passed August 13, 1946, 60 Stat. 1049, et seq. Here the Indian Claims Commission has ignored these claims of the petitioners and the United States Court of Claims has held that it is without jurisdiction to consider such claims.

The question, therefore, is:

1. Whether the petition filed in the Court of Claims alleged valid claims within the jurisdiction of said court.

The most recent legislative expression of the Congress is contained in its said Act of August 13, 1946, 60 Stat. 1049, et seq. Among other things, section 2 of said Act (25 U.S.C.A., sec. 70(a)) provides: that the Commission shall hear and determine the following claims against the United States:

> "(1) claims in law or equity arising under the constitution, laws, treaties of the United States and executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue in a court of the United States, was subject to suit; (3) claims which would result if the treaties, contracts, and agreements between the claimant and the United States were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether of law or of fact, or any other ground, cognizable by a court of equity; (4) claims arising from the taking by the United States, whether as a result of a treaty of cession or otherwise, of lands owned or occupied by the claimant without the payment for such lands of compensation agreed to by the claimant, and (5) claims based upon fair and honorable dealings that are not recognized by any existing rule of law or

> equity. No claim accruing after August 13, 1946, shall be considered by the Commission.
>
> "All claims under this chapter may be heard and determined by the Commission notwithstanding any statute of limitations or laches, but all other defenses shall be available to the United States."

While the Court of Claims recognized the liberal impact of said section 2 of the said Indian Claims Commission Act, it failed to apply such liberal construction in the case at bar. Thus in the case of *Otoe and Missouri Tribe of Indians v. United States*, 131 F. Supp. 265 (Ct. Clms.), the Court of Claims conceded, and stated that:

> "We think it quite clear from the face of the Indian Claims Commission Act that in its passage Congress was, to a certain extent, exercising its political function of creating certain new causes of action and recognizing liability in the United States, if the facts warranted, in connection with such causes. In fact the Act clearly creates causes of action and permits suits thereon which would not have been possible, and are not possible, as far as we know, between private individuals."

In spite of the liberal language used by the Court of Claims in its foregoing opinion, the said court failed to apply such liberality in the consideration of the petition of the petitioners.

It is to be noted on pages 12 and 13 of the petitioners' Petition (Appendix, pp. 19-31), that they set out 22 parcels of land taken from them by the United States. They, thereafter, allege in this respect as follows:

> "And other lands, unknown to the heirs of said lands herein, which are in the possession of said records, of the defendant, and by the unlawful taking of said lands from the plaintiffs herein, thus leaving them without any place of habitation or funds with which to sustain themselves, and they and their families were impoverished, all of which was contrary to their just, equita-

> ble, constitutional, and lawful rights, contrary to the promises made to them by treaty of July 19, 1866, and the directive of Congress, and contrary to fair and honorable dealings required of the defendant."

This Court, by its decisions throughout the years, has held the United States liable for the unlawful taking of private property for public use. In *United States v. Kansas City Life Ins. Co.*, 339 U.S. 799, 809, this Court in affirming a judgment of the Court of Claims for the unlawful taking of real property by the United States, said:

> "The next question is whether or not the Government's destruction of the argicultural value of the respondent's land in this case amounted to a taking of private property for public use within the meaning of the Fifth Amendment. This case comes within the principle that the destruction of privately owned land by flooding is 'a taking' to the extent of the destruction caused. The decisions in Pumpelly v. Green Bay Co., 13 Wall. 166, United States v. Lynch, supra, United States v. Williams, 188 U.S. 445, and same case, 104 F. 50, 53; United States v. Welch, 217 U.S. 333; and United States v. Cress, supra, illustrate the development of that principle."

Again in safeguarding the rights of individual Indians to their land, this Court said in the case of *United States v. Shoshone Tribe*, 304 U.S. 111, 118:

> "Provisions in aid of teaching children and of adult education in farming, and to secure for the tribe medical and mechanical service, to safeguard tribal and individual titles, when taken with other parts of the treaty, plainly evidence purpose on the part of the United States to help to create an independent permanent farming community upon the reservation. Ownership of the land would further that purpose. In the absence of definite expression of intention so to do, the United States will not be held to have kept it from them. The authority of the United States to prescribe title by which individual Indians may hold tracts selected by them within

> the reservation, to pass laws regulating alienation and descent and for the Government of the tribe and its people upon the reservation detracts nothing from the tribe's ownership, but was reserved for the more convenient discharge of the duties of the United States as guardian and sovereign."

This Court also held in *United States v. Klamath*, 304 U.S. 119, 123, that:

> "It is appropriate first to observe that while the United States has power to control and manage the affairs of its Indian wards in good faith for their welfare, that power is subject to constitutional limitations, and does not enable the United States, without paying just compensation therefor, to appropriate land of an Indian tribe to its own use or to hand them over to others."

In the case of *Crow Tribe of Indians v. United States*, 284 F.2d 361 (1960), the Court of Claims approved a judgment in favor of the Crow Tribe Indians in the sum of $10,242,984.70. That in reaching said judgment the Court of Claims further ruled that the issue presented to the court in the prior *Crow* case (81 Ct. Clms. 273-274), were not "res judicata" of the issues presented in the second Crow case.

It appears, therefore, from a fair appraisal of the pertinent statutes and the decisions of this Court, that petitioners' Petition stated a cause of action cognizable in the United States Court of Claims.

2. The defense of statute of limitations is barred under the provisions of 60 Stat. 1050.

It may be noted that the judgment of the Court of Claims, entered on April 5, 1965 (Appendix, pp. 31-32), provides in part that:

> "(1) to the extent that plaintiffs' claim is based on the Indian Claims Commission Act, the claim accrued long prior to August 13, 1946, and this

court has no jurisdiction of the claim under that Act; (2) to the extent that plaintiffs' petition asserts a claim under the Act of October 1, 1890 (26 Stat. 636), the claim is barred by the statute of limitations; (3) to the extent that the petition asserts claims based upon plaintiffs' alleged rights to share in the judgment rendered by the Indian Claims Commission in Cherokee Nation v. United States, Docket No. 173, 9 Ind. Cl. Comm. 435 (1961), the court lacks original jurisdiction to hear and to determine such claims, and (4) to the extent that the petition asserts a claim by individuals that might be cognizable under 28 U.S.C. 1491, the claim is barred by the 6-year statute of limitations,. . .."

It is here contended by the petitioners that statutes of limitations relative to Indian claims are dispensed with under the following language of the Indian Claims Commission Act: "All claims under this chapter may be heard and determined by the commission notwithstanding any statute of limitation or laches, but all other defenses shall be available to the United States."

It is crystal clear from the above language of the Indian Claims Commission Act that Congress has tolled all statute of limitations involving Indian claims and the judgment below is in error insofar as it recites that the claims of the petitioners are barred by the statute of limitations.

Consistent with the raising of the statutory veil, as aforesaid, the claims of the petitioners, as individuals, are immune from the jurisdictional forum of the Indian Claims Commission. This Court has recognized and approved the rights of individual Indian claimants to proceed in the United States Court of Claims in the case of *Cherokee Nation and United States v. Whitmire*, 223 U.S. 108 (1912).

Moreover, in Docket No. 125 of the Indian Claims Commission, in the case of *Cherokee Freedmen and Cherokee Freedmen Association ex rel. Edward*

Curls, et al. v. United States of America, decided on December 28, 1961, the Indian Claims Commission held that the claims "were individual in nature, each depending upon individual facts, that is, did the individual claimant qualify under Article IX of the 1866 treaty?"

The said Commission held that the petitioners herein are individuals in nature and that the Indian Claims Commission was without jurisdiction. Thus, the Commission indicated that such jurisdiction was in the United States Court of Claims, where action should have been brought.

Under the Act of Congress passed October 1, 1890 (26 Stat. 636), Congress conferred jurisdiction on the Court of Claims to hear and determine "the just right in law and equity of the Cherokee Freedmen, who are settled and located in the Cherokee Nation under the provisions and stipulations of Article Nine of the aforesaid treaty."

The Congress has vested these rights in the petitioners and has vested jurisdiction in the Court of Claims, and/or, the Indian Claims Commission, yet, the petitioners have been denied the "forum" of both the Court of Claims and the said Commission. This certainly is not the "fair and honorable dealings" referred to in 60 Stat. 1050. Moreover, in the *Whitmire* case, supra, this Court quoted from decisions of the Court of Claims (May 8, 1895, 30 and 38 Ct. Cl. pp. 138, 180) as follows:

> "The court decided that under the Cherokee constitution of 1866 the Freedmen became citizens of the Nation equally with the Cherokees, and equally entitled to share in its proceeds, but also decided that the Freedmen to whom the treaty referred were those who had returned to the Nation within six months after the promulgation of the treaty, and their descendants, and that the Freedmen and the descendants of Freedmen who did not return within six months

were excluded from the benefits of the treaty. The court decreed that the Cherokee Nation and the United States be prohibited from making any discrimination between such Freedmen citizens and their descendants and native Cherokees in the distribution of $8,595,736 paid by the United States to the Cherokee Nation for that portion of its territory known as 'Cherokee outlet.'"

This court further stated:

"That the court conceived it necessary to ascertain the individual Indians who were entitled under its decree to share in the fund, and adjudicated that the roll called the 'Wallace Roll' which showed 3,524 persons should be approved by the court."

It is unquestioned by the respondent that petitioners' ancestor, James A. Robinson, was an enrollee, both under the "Wallace Roll" and the Dawes Roll."

3. Petitioners are distributees under the judgment award in Cherokee Nation v. United States, Docket No. 173, 9 Ind. Cl. Comm. 435 (1961).

The Act of May 24, 1949, c. 139, sec. 89(a), 63 Stat. 102 (28 U.S.C., sec. 1505), provides that:

"The Court of Claims shall have jurisdiction of any claim against the United States accruing after August 13, 1946, in favor of any tribe, band or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska whenever such claim is one arising under the constitution, laws or treaties of the United States, or executive orders of the President, or is one which otherwise would be cognizable in the Court of Claims if the claimant were not an Indian tribe, band or group."

On September 14, 1961, the Indian Claims Commission rendered a decision against the United States Treasury Department in favor of the Cherokee Nation

in the sum of $14,789,476.16. The petitioners asserted their claims in the Court of Claims for their distributive shares of the said award and the Court of Claims held that it lacked "original jurisdiction to hear and determine such claims."

It is the position of the petitioners, that jurisdiction of the Court of Claims to hear and determine the issues of participation in the above award, is founded upon the provisions of 63 Stat. 102, 28 U.S.C. 1505. The award in question was entered on September 14, 1961, which is a claim arising subsequent to August 13, 1946. If the descendants of the Freedmen were allowed to participate in the Court of Claims in the distribution of the $8,595,736 paid by the United States to the Cherokee Nation in the *Whitmire* case, supra, there is no justification now for denying the petitioners the right to participate in the distribution of the $14,789,476.16 award through their claims in the Court of Claims.

CONCLUSION

We submit that it is the function of the Court of Claims to give to the statutes and treaties a liberal construction and to settle the law, and not to create confusion by failing to abide by the long line of decisions of this Court applicable to Indian affairs, and to follow its own well recognized decisions. This confusion in the law has necessitated petitioners' request that this Court grant certiorari to review the novel and important questions presented in this case.

Respectfully submitted,

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IN THE UNITED STATES COURT OF CLAIMS

* * *

[Filed Jan. 14, 1964]

PETITION.

Comes now the Plaintiffs, by and through their undersigned attorneys, whose contract of employment is hereby attached and made a part hereof, whereas the Plaintiffs hereby state:

I.

The Cherokee Freedmen is a group of individuals established by treaty of July 19, 1866 (14 Stat. 799, II Kap. 942) giving them all the rights of Native Cherokee Indians, and is now an identifiable group pursuant to 9th Article of said Treaty, which is as follows:

> "The Cherokee Nation, having voluntarily, in February, 1863, by an act of the National Council, forever abolished Slavery, hereby covenant and agree that never hereafter shall either slavery or involuntary servitude exist in their nation otherwise than in the punishment of crime. * * * They further agree that all Freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion and are now residents therein, or who may return within six months, and their descendants shall have all the rights of Native Cherokees."

and pursuant to the amended Constitution of the Cherokee Nation which complied with and adopted the provisions of the Treaty of July 19, 1866, and supplemented the above quoted provision by providing that all male citizens over the age of twenty-five years of age were eligible to a seat in the National Council (Sec. 5, Art. 3); that the Freedmen were thereby adopted as part of

the Cherokee Nation and their rights and equities were inextricably interwoven with those of the Cherokee Indians by blood. The Cherokee Freedmen group has, continuously thereafter been recognized by the United States Government and by the statute as an identifiable group, and dealt with respecting property rights and obligations owed them as members and part of the Cherokee Nation of Indians (30 Ct. Clms. 138, Ct. Clms. 180; 44 Clms. 453).

II.

Petitioners herein are descendants, heirs and successors in interest of the Cherokee Freedmen who were by the Treaty of July 19, 1866, aforesaid, liberated pursuant to the voluntary act of their former owners and by law, and/or descendants and heirs of the free colored persons who were occupying and living in the area of the Cherokee Nation, in Indian Territory, now State of Oklahoma, and owned and occupied by the Cherokee Indians, at the commencement of the rebellion, or who returned thereto within six months from the date of said treaty, and who are by said Treaty given equal rights as citizens and an equal interest in the property of the Cherokee Indian Nation, and all other rights of Cherokee Indians by blood.

III.

The Plaintiffs, being members and citizens (14 Stat. 799, 30 Clms. 138) of the Cherokee Indian Nation and Tribe, therefore have the lawful right to bring this suit as individuals under section 10 of the act of August 13, 1946, and as such states:

(a). The individual plaintiffs above-named appear herein and make their claims as individuals and as far as permitted by law, their heirs and successors in interest, who may be found to be entitled to participate in any judgment which may be recovered by the Cherokee Indian Tribes and/or Cherokee Freedmen, and in any property or money to which they are entitled.

(b). Plaintiffs use as successors in interest of the Cherokee Freedmen and as Rejected Cherokee Freedmens and all Cherokee Freedmen similarly situated who are or/and as representatives of all Cherokee Freedmen of the same class.

IV.

This proceeding is brought pursuant to Act of Congress, October 1, 1890, 26 Stat. 636, 1 Kp. 372, approved August 13, 1946, entitled "An Act to Create an Indian Claims Commission, to provide the powers, duties and functions thereof, and for other purposes" (Public Law 726, 79 Congress, Chapter 959, 2nd Session, Section 2 of which provides as follows:

"The Commission shall hear and determine the following claims against the United States on behalf of any Indian Tribe, band, or other identifiable group of American Indians, residing within the territorial limits of the United States or Alaska: (1). Claims in law or equity arising under the Constitution, Law, Treaties of the United States, and executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue in a court of the United States if the United States was subject to suit; (3) claims which would result if the treaties, contracts and agreements between the claimant and the United States were revised on the ground of fraud, duress, and unconscionable considerations, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by the court of equity; (4) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant; and (5) claims based upon fair and honorable dealings what are not recognized by any existing rule of law or equity."

Plaintiffs' claims accrued prior to said act and have not been adjudicated.

V.

The defendant, by Treaties, Acts of Congress and decisions of Court, has recognized the interest and title of the Cherokee Freedmen inclusive with the Cherokee Indians by blood, to lands and property within the Cherokee Nation, and ratified and confirmed their claims to the lands possessed and occupied by them, with all the rights incident to ownership as were given native Cherokee Indians and subject to the same restrictions, providing that any sale, if made, must be to the United States (14 Stat. 799).

VI.

That beginning with the date of the Treaty, aforesaid, July 19, 1866, and within the time prescribed by law, the Cherokee Freedmen remained and established themselves in the Cherokee Indian Nation as adopted members of the Cherokee Tribe, took part in the affairs of the Cherokee Nation, attended and participated in its council meeting. They were farmers, engaged in agriculture pursuits, they raised cattle and other livestock, built homes and made improvements upon lands of the tribe assigned to them, and in every way became an integral part of the Cherokee Indian Nation.

VII.

That in compliance with the directives of the Treaty of July 19, 1866, in 1888 and 1889, Congress authorized a roll to be made of Cherokee Freedmen within the meaning of Section IX of the Treaty of 1866. (25 Stat. 608; 25 Stat. 994). Pursuant thereto the "Wallace Roll" was prepared. October 1, 1890, Congress conferred jurisdiction on the Court of Claims to hear and determine "The just rights in law and equity * * * of the Cherokee Freedmen, who are settled and located in the Cherokee Nation under the provisions and stipulations of Article Nine of the aforesaid Treaty" (26 Stat. 636.) recognition was thereby given to the Cherokee Freedmen as a class with the right of filing a

claim through the Court of Claims against the Cherokee Nation and the United States to recover all monies, lands and rights due them under the Treaty. "*See Moses Whitmire, Trustee for the Freedmen of the Cherokee Nation v. The Cherokee Nation and the United States*, 30 Ct. Clms., 138.)".

VIII.

By Act of Congress, October 1, 1890, (26 Stat. 636, 1 Kap., 372) jurisdiction was conferred upon the Court of Claims to hear and determine the just rights of the Cherokee Freedmen who settled and were located in the Cherokee Nation under the provisions and stipulations of Article 9 of the Treaty of 1866, the Court of Claims took jurisdiction of the claims of said freedmen, and decided (30 Ct. Clms. 138 and 180, Feb. 3, 1896) that the Freedmen to whom the Treaty referred were those who were living in or who had returned to the Nation within six months after the promulgation of the treaty, and their descendants, and that all others were excluded from the benefits of the treaty. The Secretary of the Interior was ordered to appoint a Commission to make a roll of those persons so entitled. The Court further decreed (and it was so directed by Congress, Oct. 1, 1890, 26 Stat. 631) that those Freedmen became citizens of the nation equally with the Cherokees, equally interested and lawfully entitled to equally participate in the common property of the Cherokee Indian Nation, and to share equally in the distribution of all moneys due or to become due, either in law or equity, and to share equally in the funds that had been paid out or might thereafter be paid to the Cherokee Indian Nation, or which in any way had come or might come into possession of the Cherokee Nation, from the sale, leasing, or rent for grazing purposes on Cherokee Lands west of Ninety-six degrees west longitude, and which had been or might be thereafter appropriated and directed to be paid out by the acts passed by the Cherokee council, and for all moneys, lands and rights which should be

due or become due to the said freedmen under the provisions of the aforesaid articles of the treaty and articles of the agreement (26 Stat. L. 636. Ch. 1249).

IX.

That thereafter, in compliance with the Decree of the Court of Claims, February 3, 1896, the Secretary of the Interior appointed Commissioners to make up a roll of the Freedmen entitled to come within the provisions of said Treaty and the rights decreed to them; said Commissioners thereby made and completed the roll known as the Kern-Clifton Roll, comprising approximately 4,361 names of persons lawfully within the provisions of the Treaty of 1866, which roll was approved by the Secretary of the Interior on the 18th day of January, 1897.

X.

Beginning with the month of February, 1897, moneys of the Cherokee Nation, approximately $8,500,000.00 withheld in the Treasury of the United States, by Direction of Congress, in which the Cherokee Freedmen were to participate, were equally paid to the legal residents and citizens of the Cherokee Nation which included the Cherokee Freedmen so enrolled, as legal members of the tribe by adoption, and said Freedmen were thereafter paid money in the same proportion as paid to the Cherokee Indians by blood; thereby they were at all times recognized and treated by the United States as legally adopted members of the Cherokee Indian Nation, that the award rendered by the Indian Claims Commission against the United States Treasury Department, Fiscal Service, Bureau of Account, Budget and Administrative accounts branch on the 14th day of September, 1961, in the amount of $14,789,476.16 which sum of money authorized to be paid by the Indian Claims Commission to the Citizens of the Cherokee Nation, whose names appears on the 1897 Tribal Roll, are to share in this fund, including their descendants; and

that all of these plaintiffs were members of the 1897 Tribal Roll, but are not to share in said funds, however the Defendants are not estopped from denying that those Freedmen were members and Citizens of the Tribe.

XI.

Plaintiffs allege that the United States, during the times herein mentioned, maintained a fiduciary relationship and the same guardianship over the freedmen, and their property rights, as it did over the Indians; their rights and privileges were under the administration, supervision and control of the United States Department of Interior.

XII.

Plaintiffs state that by Act of Congress, March 3, 1893, (27 Stat. L. 612, 645, ch. 209) the Commission to the Five Civilized Tribes was created and on June 10, 1896 (29 Stat. 321) that Commission, known as the Dawes Commission, was directed to enroll the citizens of the respective tribes, preparatory to the allotment in severalty, lands of the tribes in Indian Territory (Now in the State of Oklahoma) to the members of the Tribes, and provided "that the rolls of citizenship of the several tribes as now existing are hereby confirmed", and the Commission should "add thereto the names of citizens whose right may be conferred under the act" and submit such rolls to the Secretary of the Interior for approval. That by Act of June 28, 1898, (30 Stat. 495) known as the Curtis Act, Congress further instructed the Commission, to Wit:

> "Sec. 21, That in making Rolls of Citizenship of the several tribes, as required by law, the Commission to the Five Tribes * * * shall make a roll of Cherokee Freedmen in strict compliance with decree of the Court of Claims rendered the 3rd day of February, 1896, (30 Ct. Claims 138, 180).

XIII.

On the 9th day of April, 1900 (approved by Congress March 1, 1901, 21 Stat. 848, 1 Kap. 715-724) the United States entered into an agreement with the Cherokee Nation of Indians for the allotment of their lands, the manner of enrollment of the citizens of said Cherokee Nation, etc., by which they specifically agreed "such rolls shall be made in strict compliance with the provisions of Section 21 of the Act of Congress of June 28, 1898". By Act of July 1, 1902, (32 Stat. 716, 1 Kap. 787) Congress instructed the allotment of the lands of the Cherokee Nation, extended the time of enrollment therefor as of September 1, 1902, provided for the enrollment of those children born since the 1st day of April, 1900, and be made in strict compliance with the provisions of Sec. 21, of the Act of June 28, 1898 and Act of May 31, 1900".

XIV.

By Act of April 26, 1906 (34 Stat. 137, 3 Kap. 196) Congress provided for final disposition of the affairs of the Five Civilized Tribes, directed that the Commission be terminated, and that all books, records and files be turned over to the Secretary of the Interior; authorized the Secretary of the Interior to complete the rolls, to include only those persons whose names appeared upon any of the tribal rolls whose applications were made prior to December 1, 1905, and gave him until March 4, 1907, within which to carry out those directives, at which time his jurisdiction in that respect ceased.

XV.

Plaintiffs allege that the commission to the Five Civilized Tribes and the Secretary of Interior as agents and representatives of the Defendants, entered upon their duties prescribed by Congress, but in violation of the trust imposed upon them they wholly disregarded their powers, obligations and duties, assumed author-

ity not given to them, and so administered said trust as to result in discrimination, misrepresentation, duress, collusion and fraud as against these plaintiffs and their ancestors; that they wrongfully, fraudently and unlawfully refused to accept and consider the membership rolls of the Freedmen theretofore authorized by Congress, and opinion of the Court of Claims, February 3, 1896 Supra), which were approved and confirmed by the Tribe and the Secretary of the Interior and reconfirmed by Congress; that without notice or warning, they illegally and without authority entirely eliminated these Plaintiffs from the tribal rolls and/or refused to accept their applications for allotments of lands and payments of money to which they were lawfully entitled; that they were arbitrarily and without notice or authority and without regard to the rights of the Freedmen, set up their own plan of distribution or alloting the lands belonging to the Cherokee Nation in which these Plaintiffs and their ancestors were entitled to participate as lawful members of the Tribe. As a result of the aforesaid acts and misdeeds and improper and illegal conduct of the Defendant's Agents and representatives, plaintiffs and their ancestors were deprived of their property, and lawful right to participate in the property of the Cherokee Indian Tribe, for which Defendant should account to Plaintiffs.

XVI.

Plaintiffs allege that as a further result of the unlawful and fraudulent acts of the Defendant by its agent and representatives, as alleged herein, the Plaintiffs were unable to protect themselves from the oppression and frauds that were perpetrated against them, they became confused and bewildered; with the exception of a few, favored by the Commission or representatives of the Defendant, they suffered loss and were deprived of their properties and moneys Congress and the Court intended for them; they were unlawfully and arbitrarily dispossessed or driven from and deprived of their

homes and lands, said lands in which the Defendant deprived said Plaintiffs, are as follows, as far as the Plaintiffs can state, other legal descriptions, are in the hands of the Defendant, and the Defendant refuses to permit all said Plaintiffs to view their records. Said legal description which are in the hands of the Plaintiffs are as follows:

W/2 of SW/4 Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

NE-1/4 SE 4, Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

E-1/2 of SE/4 of SW/4, Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

SE/4 of SW/4 Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

W/2 of SE/4 of SW/4 Section 5, Township 26, Range 16 E., Nowata County, Oklahoma,

NW/4 of SW/4 Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

SW/4 of SW/4 Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

SE/4 Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

SW/4 of SE/4 Section 5, Township 26, Range 16 East, Nowata County, Oklahoma,

SW/4 of Section 5, Township 26, Range 15 East, Nowata County, Oklahoma,

E/2 of NE/4 Section 6, Township 25, Range 16 East, Nowata County, Oklahoma,

SW-1/4 Section 23, Township 28, Range 20 East, Craig County, Oklahoma,

East 1/2 of the SE 1/4 of Section 34, Township 28, Range 20, East, Craig County, Oklahoma,

SW/4 of NW/4 of NW/4 of Section 27, Township 21, Range 22, of the Indian Territory, Oklahoma,

E/2 of SE/4 of SW/4, and SW/4 of SE/4 of SW/4 of Section 35, Township 25, Range 17 of the Indian Territory, Oklahoma,

NW/4 of SE/4, SW/4 of Section 35, Township 25, Range 17, Indian Territory, Oklahoma,

SW/4 of SE/4 of Section 12, Township 23, Range 16, of the Indian Territory, Oklahoma,

SW/4 of NE/4 of SE/4 of Section 28, Township 22, Range 21, of the Indian Territory, Oklahoma,

N 1/2 of NW/4 of Section 14, Township 24, Range 17, in the Indian Territory, Oklahoma,

SW/4 of NW/4, and NW/4 of SE/4 of NW/4 of Section 14, Township 24, Range 17, in the Indian Territory, Oklahoma,

NE/4 of NE/4 of SE/4 of Section 28, Township 22, Range 21, of the Indian Territory, Oklahoma,

SE/4 of NE/4 of SE/4 of Section 28, Township 22, Range 21, of the Indian Territory, Oklahoma,

and other lands, unknown to the heirs of said lands herein, which are in the possession of said records, of the Defendant, and by the unlawful taking of said lands from the Plaintiffs herein, thus leaving them without any place of habitation or funds with which to sustain themselves and they and their families were impoverished, all of which was contrary to their just, equitable, constitutional, and lawful rights; contrary to the promises made to them by Treaty of July 19, 1866, and the directives of Congress, and contrary to fair and honorable dealings required of the Defendant.

XVII.

Plaintiffs further allege that because of the misrepresentations, discriminations, duress, collusions, fraud and unlawful acts, practiced by Defendant in its fiduciary capacity, as aforesaid, and its disregard to fair and honorable dealings with the Plaintiffs and their ancestors, Plaintiffs are entitled to have their constitutional, lawful and equitable rights restored to them; that as a result thereof, Plaintiffs have been damaged and Defendant is indebted to them for the fair value of Lands and amounts of money for which they were unlawfully and arbitrarily deprived, as aforesaid, the amounts of which are unknown to Plaintiffs, but the defendant has the records thereof and can account for the same under the orders of this court.

WHEREFORE, these Plaintiffs, collectively and individually, as the case may be, demand judgment against the Defendant, as follows:

FIRST: That Defendant be required to account for all moneys appropriated by Congress in which the Plaintiffs were entitled.

SECOND: That Defendant be required to restore, to the Plaintiffs, all the lands including agricultural, oil and all other mineral rights. That Defendant pay to the Plaintiffs damages that have been incurred for the time that the Plaintiffs have been deprived of their lands and the production of said lands.

THIRD: That Plaintiffs be paid 4% interest as reasonable compensation for being deprived of the use of said properties and moneys, as aforesaid.

FOURTH: That allowance be made to Plaintiffs attorneys for reasonable expenses incurred herein, with attorney fees of ten per cent of the amount recovered.

FIFTH: For such other and further relief as in the premises they may be entitled.

Respectfully Submitted,

WILLIAM E. GLENN,
Attorney-at-Law,
1017-1/2 Kansas Avenue,
Topeka, Kansas;
CE 2-3168

GEORGE H. WINDSOR,
Attorney-at-Law
613 F Street, N. W.,
Washington 4, D. C.;
Tel: NA 8-2702,

Attorneys for Plaintiffs.

[April 5, 1965]

ORDER

This case comes before the Court on defendant's motion for summary judgment. Upon consideration thereof, together with the briefs of the parties, and without oral argument, it is concluded that: (1) to the extent that plaintiffs' claim is based on the Indian Claims Commission Act, the claim accrued long prior to August 13, 1946, and this court has no jurisdiction of the claim under that Act; (2) to the extent that plaintiffs' petition asserts a claim under the Act of October 1, 1890 (26 Stat. 636), the claim is barred by the statute of limitations; (3) to the extent that the petition asserts claims based upon plaintiffs' alleged rights to share in the judgment rendered by the Indian Claims Commission in *Cherokee Nation v. United States*, Docket No. 173, 9 Ind. Cl. Comm. 435 (1961), the court

lacks original jurisdiction to hear and to determine such claims, and (4) to the extent that the petition asserts a claim by individuals that might be cognizable under 28 U.S.C. 1491, the claim is barred by the 6-year statute of limitations, and

IT IS ORDERED that defendant's motion for summary judgment be and the same is granted and plaintiffs' petition is dismissed.

BY THE COURT

Wilson Cowen
Chief Judge

ORDER

These cases come before the court on motions for rehearing, reconsideration, to vacate judgment entered for failure to prosecute, and request for the court to review the findings of the court under Rules 68 and 69 of the rules of this court and on consideration thereof,

IT IS ORDERED this 11th day of June 1965, that said motions be and the same are denied as follows:

* * *

11-64 James A. Robinson, Deceased, by Bessie L. Tallaferro Robinson, et al. Plaintiff's motion.

* * *

BY THE COURT

Wilson Cowen
Chief Judge

* * *

STATUTES AND TREATIES INVOLVED

Treaty of July 19, 1866, 14 Stat. 799:

> "The Cherokee Nation, having voluntarily, in February, 1863, by an act of the National Council, forever abolished Slavery, hereby covenant and agree that never hereafter shall either slavery or involuntary servitude exist in their nation otherwise than in the punishment of crime. * * * They further agree that all Freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion and are now residents therein, or who may return within six months, and their descendants shall have all the rights of Native Cherokees."

Act of October 1, 1890, 26 Stat. 636:

> "The Commission shall hear and determine the following claims against the United States on behalf of any Indian Tribe, band, or other identifiable group of American Indians, residing within the territorial limits of the United States or Alaska; (I). Claims in law or equity arising under the Constitution, Law, Treaties of the United States, and executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue in a court of the United States if the United States was subject to suit; (3) claims which would result if the treaties, contracts and agreements between the claimant and the United States were revised on the ground of fraud, duress, and unconscionable considerations, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by the court of equity; (4) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant; and (5) claims based upon fair and honorable dealings what are not recognized by any existing rule of law or equity."

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1965

JAMES A. ROBINSON, DECEASED, BY BESSIE L. TALLAFERRO ROBINSON, MYRRH E. MARTIN SNELL, THELMA M. ROBINSON VANCE, RAY M. ROBINSON, JOHN S. ROBINSON, CLARA L. MILLER ROBINSON, GRACE BROWN, MACK R. BROWN, EDWARD R. TALLAFERRO, LUCIAN R. TALLAFERRO, CHARLES S. ROBINSON, ORVILLE L. ROGERS, BESSIE BIZER AND ARCHIE V. ANDERSON, FOR THEMSELVES AND THEIR HEIRS,
Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,
Defendant.

A MOTION FOR LEAVE TO SUPPLEMENT PETITION ACCOMPANIED WITH ONE THOUSAND SHEETS OF DOCUMENTS.

RICHARD L. GUNN,
1404 E. 9th.,
Cleveland, Ohio 44114,
Attorney for Plaintiffs.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1965

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JAMES A. ROBINSON, DECEASED, BY BESSIE L. TALLAFERRO ROBINSON, MYRRH E. MARTIN SNELL, THELMA M. ROBINSON VANCE, RAY M. ROBINSON, JOHN S. ROBINSON, CLARA L. MILLER ROBINSON, GRACE BROWN, MACK R. BROWN, EDWARD R. TALLAFERRO, LUCIAN R. TALLAFERRO, CHARLES S. ROBINSON, ORVILLE L. ROGERS, BESSIE BIZER AND ARCHIE V. ANDERSON, FOR THEMSELVES AND THEIR HEIRS,
Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,
Defendant.

A MOTION FOR LEAVE TO SUPPLEMENT PETITION ACCOMPANIED WITH ONE THOUSAND SHEETS OF DOCUMENTS.

The above named Petitioners, by their Counsel of Record, Richard L. Gunn, move the Court for leave to file a Supplement Petition, in the above entitled matter, accompanied with the one-thousand sheets of official docu-

ments, to correct and clarify the record submitted to the Court.

In assigning the reasons, therefor, the former attorney for Petitioners, King David, 1938 11th Street, N.W. Washington, D.C., failed to file on October 20, 1965, one-thousand sheets of documentary evidence to support the petition and these documents were in his possession several weeks prior to October 20, 1965.

Further, the Court was not presented a Petition based upon all the facts, which had been given to the former attorney and which he had in his possession on and prior to the date of filing.

The said Petition contained errors that the Plaintiffs had no knowledge of prior to the filing thereof, since the Plaintiffs were over 1300 miles from Attorney, King Davids' office and they received no copies of the Petition until after said Petition was filed. Therefore there were no means to correct the mistakes prior to the filing of the Petition.

Wherefore Petitioners pray that the within Motion for Leave to Supplement the Petition For a Writ of Certiorari be granted.

RICHARD L. GUNN,
1404 E. 9th,
Cleveland, Ohio 44114,
Attorney for Plaintiffs.

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 681

JAMES A. ROBINSON, DECEASED, BY BESSIE L. TALLIAFERRO ROBINSON, AND MYRRH E. MARTIN SNELL, ET AL., AND THEIR HEIRS, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The order of the Court of Claims granting the government's motion for summary judgment (Pet. App. 31–32) is unreported.

JURISDICTION

The judgment of the Court of Claims was entered on April 5, 1965 (Pet. App. 31–32), and petitioners' motion for rehearing was denied on June 11, 1965 (Pet. App. 32). On October 11, 1965, the Chief Justice extended the time for filing a petition for a writ of certiorari to October 20, 1965, and the petition was

206-177—66

filed on that date.[1] The jurisdiction of this Court is invoked under 28 U.S.C. 1255(1).

QUESTION PRESENTED

Whether the Court of Claims correctly held that petitioners' Indian claims were outside the court's jurisdiction and/or barred by the statute of limitations.

STATEMENT

After the Civil War, the United States entered into a treaty with the Cherokee Nation whereby the latter agreed that former slaves who met certain requirements should "have all the rights of native Cherokees." Treaty of July 19, 1866, 14 Stat. 799, 801. Subsequent congressional enactments prescribed criteria and procedures for establishing an official roll of the Cherokee Nation. A series of tentative rolls were compiled and, in some instances, "certificates of allotment" of lands were issued, to become effective if and when the allottee was included on the final roll. Some individuals were included on the initial rolls, but excluded either on subsequent interim rolls or on the final roll, which was required to be completed by March 4, 1907. Act of April 26, 1906, 34 Stat. 137, 138. Trustees of the Cherokee Freedmen, representing all freedmen and their descendants, challenged the striking or exclusion of certain freedmen from the various tentative rolls and the final roll. Protracted litigation ensued, culminating in this Court's decisions

[1] A motion for leave to supplement the petition was filed, and the proposed supplemental petition lodged with the Court, on December 16, 1965. The United States does not oppose the granting of the motion to supplement the petition.

in *Lowe* v. *Fisher*, 223 U.S. 95, and *Cherokee Nation* v. *Whitmire*, 223 U.S. 108, where it was held that the Secretary was not bound by any of the interim rolls and had correctly applied the statutory standards in establishing the final roll.

Petitioners claim to be descendants of Cherokee freedmen who were excluded from the final roll. They instituted the present suit in the Court of Claims against the United States, contending that they were entitled to the benefits of the Treaty of 1866 and seeking an accounting, restoration of lands, damages, and interest (Pet. App. 19–31). The Court of Claims granted a motion by the United States for summary judgment on the ground that petitioners' claims were time-barred and/or outside the Court of Claims' jurisdiction (Pet. App. 31–32).

ARGUMENT

The decision below is clearly correct, and the issues are neither recurring in nature nor of general importance in the administration of Indian affairs. Review by this Court is not warranted.

The Court of Claims' jurisdiction of tribal claims is expressly limited to those arising after August 13, 1946 (the date of the enactment of the Indian Claims Commission Act, 60 Stat. 1049, 25 U.S.C. 70–70w). See 28 U.S.C. 1505. Hence, if, as they assert (Pet. 3), petitioners constitute a "tribe, band or other identifiable group of American Indians," the Court of Claims lacked jurisdiction here; for petitioners' claims arose in the early 1900's, when they, or their ancestors, were excluded from the rolls of the Cherokee Nation.

Petitioners also assert that they "make their claims as individuals" (Pet. 4, 14; Pet. App. 19). But in that event, as the Court of Claims held, their claims under the Act of October 1, 1890, 26 Stat. 636, are barred by the 12-month statute of limitations in Section 3 of that Act. Similarly, any claims asserted under 28 U.S.C. 1491 (the Tucker Act) are barred by the six-year period of limitation provided in 28 U.S.C. 2501.[2]

Petitioners' claim to share in the 1961 award of the Indian Claims Commission to the Cherokee Nation is barred by the Act of October 9, 1962, 76 Stat. 776, since Congress there directed that the award be paid only to those Cherokees who were on the rolls at the time they were closed on March 4, 1907.

CONCLUSION

For the reasons stated, the petition for a writ of certiorari should be denied.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

EDWIN L. WEISL, JR.,
Assistant Attorney General.

S. BILLINGSLEY HILL,
GEORGE R. HYDE,
Attorneys.

FEBRUARY 1966.

[2] Furthermore, petitioners' claims appear barred by *res judicata*, in view of the litigation culminating in *Cherokee Nation* v. *Whitmire*, 223 U.S. 108.

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OCTOBER TERM, 1965

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Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,
Defendant.

SUPPLEMENT TO THE PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS.

RICHARD L. GUNN,
1404 E. 9th.,
Cleveland, Ohio 44114,
Attorney for Petitioners.

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IN THE

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Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,
Defendant.

SUPPLEMENT TO THE PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS.

The above named Petitioners, by their counsel of record, pray that this Supplement to the Petition for a Writ of Certiorari become a part of the record, to correct the errors contained in and supplement the Petition for a Writ of Certiorari, filed October 20, 1965. The Petitioners had

no knowledge of these errors until they received copies of the Petition after it was filed.

JURISDICTION.

The Jurisdiction of this Court is invoked under 28 U.S.C., Section 1255 (1). Further, under the jurisdictional authority of the Constitution of the United States, Article (3), Judicial Department, Section (2), Article (1), Bill of Rights of the Constitution of the United States and the Decree of the United States Supreme Court, in Cherokee Nation and the United States, Appellants v. Moses Whitemire, Trustee for the Freedmen of the Cherokee Nation 59 L. Ed. 370; 223-108, decided January 29, 1912. Quotation of the U.S. Supreme Court, "Those who were entitled to be enrolled could again establish their rights." End of quotation.

CONCLUSIONS REACHED BY THE UNITED STATES COURT OF CLAIMS.

I.

The Court of Claims concluded, (1) quote, "To the extent that plaintiffs' claim is based on the Indian Claims Commission Act, the claim accrued long prior to the Act of August 13, 1946, and this Court has no jurisdiction of the claim under that Act," end of quote.

The Court of Claims failed to consider that the above entitled action is based upon and derives its origin from the violation by the *Successors* to the Dawes Commission, of the provisions set out in Section Nine of the Ratified Treaty of July 19, 1866 between the United States of America and the Cherokee Nation. Also the *Successors*

to the Dawes Commission, including the Department of Indian Affairs disregarded and misconstrued the Decrees of the U.S. Supreme Court and the U.S. Court of Claims.

The Plaintiffs, their heirs or ancestors were citizens of the Cherokee Nation by the provisions in Section Nine of the above mentioned treaty, by 14 Stat. 799 and the 30 Court of Claims 138-180, (21 Kapp. 942). These Plaintiffs, their heirs or ancestors were allotted lands under authority of the Order of the 30 Court of Claims 138-180, by the duly authorized Dawes Commission, under the provisions of Section (22) of the Act of July 1, 1902, (32 Stat. 716) and Land Certificates identifying such allottees by name, roll number and legal descriptions, approved by the proper allotting Officer of the Dawes Commission, which is also known as the Commission to the Five Civilized Tribes.

Thereafter, the Plaintiffs in possession of their lands, designated by legal description were forcefully dispossessed of said lands, over a period of years, by the Successors to the Dawes Commission and the Department of Indian Affairs, without any compensation having been paid therefor.

There is no Constitutional Authority to dispossess a citizen, Indian or Freedman of property or rights acquired under the authority of a ratified treaty; United States Supreme Court decisions 175-I, in Jones vs. Mehan and Choate vs. Trapp, 224, 665. Also the Sixth Article of the U.S. Constitution, which binds all judges in regards to rights acquired under treaty authority of the U.S. Constitution, which became the Supreme Law of the

land. Article (3), Judicial Department, Section (2), quote "Federal Court in general, the judicial powers *shall* extend to *all cases* in law and equity arising under this Constitution. The laws of the United States and *Treaties* made under their authority," end of quote. Also Article (1), Bill of Rights, which prohibits Congress from making any law, that would abridge or prohibit the freedom of speech, or of the press or the rights of the people peaceably to assemble and to *petition* the *Government* for a redress of *grievances.* (Emphasis provided)

II.

The Court of Claims concluded, (2), quote, "to the extent that Plaintiffs' petition asserts a claim under the Act of October 1, 1890 (26 Stat. 636), the claim is barred by the statute of limitations," end of quote.

In reply to the conclusion of law reached by the Court in the preceding paragraph, the Act of October 1, 1890 was authorized by Congress to make a complete roll of Cherokee Freedmen, thereby making them legal residents of the Cherokee Nation, within the meaning of Section Nine of the Treaty of July 19, 1866, (25 Stat. 608, 25 Stat. 994). The authority provided for in said Act of October 1, 1890 resulted in the preparation of a completion of the Roll known as the Kerns-Clifton Roll, which was completed in the year of 1896 and pursuant to the establishment of the Kerns-Clifton Roll, Congress conferred jurisdiction upon the Court of Claims to hear and determine the just rights in both law and equity of the Cherokee Freedmen. There were *no land* distribution orders existing at said time and the only question at the

time heretofore mentioned in (1890) was the equal distribution in money shares arising from grazing leases and other taxes collected by the Cherokee Nation. Pursuant thereto, the U.S. Court of Claims in the case of the Cherokee Freedmen vs. the Cherokee Nation and the United States (30 Ct. of Claims 138) rendered a decision as of February 3, 1896; In said case the Court required the Secretary of the Interior to distribute the common property of the Cherokee Nation to the Freedmen on an *equal basis* with the Cherokees by blood without discrimination. No lapse of time to bar suit, appears in Section (2) of the Act of October 1, 1890 (26 Stat. 636).

III.

The Court of Claims concluded, (3) quote, "To the extent that the petition asserts claims based upon Plaintiffs' alleged rights to share in the judgment rendered by the Indian Claims Commission in *Cherokee Nation v. United States*, Docket No. 173, 9 Ind. Cl. Comm. 455 (1961), the Court lacks original jurisdiction to hear and to determine such claims," end of quote.

The Court misinterpreted the assertation made in the petition, because the Plaintiffs desire to emphasize, they possessed *no land* or *rights to land* now being adjudicated under 173-A, which consists of the Osage Nation area in Oklahoma. The legal descriptions of some of the Plaintiffs' land will verify this fact as it is set out in the Petition.

IV.

The Court of Claims concluded, (4) quote, "To the extent that the petition asserts a claim by individuals

that might be cognizable under 28 U.S.C. 1491, the claim is barred by the 6 year statute of limitations," end of quote.

Chapter 165—Court of Claims Procedure; Section 2501, amended September 3, 1954 (U.S.C. 1491), states: Every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim *first accrues.*

Some of the Plaintiffs herein were notified that they had been rejected and dispossessed of their land on March 2, 1906. The Plaintiffs subsequently instituted the case of Moses Whitmire, Trustee, etc., vs. The United States and the Cherokee Nation in the Court of Claims, bearing case number 17209, adjudicated on the 20th day of February 1911, which was within the 6 year Statute of Limitations as alleged by the Defendant, whereas the Court stated:

COURT OF CLAIMS.

Moses Whitmire	)	
	)	
vs.	)	No. 17209
	)	
The United States, et al.	)	

In this case the Court ordered that the following decree be entered:

It is therefore, this twentieth day of February, 1911, ordered, adjudged and decreed by the Court that the said decree of this Court passed on the third day of February, 1896, be, and the same hereby is construed to vest in all the persons whose names were placed on the roll made in

obedience to said decree, known as the Kern-Clifton Roll, and in their descendents, born after the 3d day of May, 1894, and before the 4th day of March, 1907, the right of citizenship in the Cherokee Nation, and that so many of said persons and their said descendants as were living on the 4th day of March 1907, were and are entitled to participate in the allotment of the common lands and the distribution of the common funds of said Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood or parentage may have been or may be hereafter entitled, and that in any distribution of the common lands or the common funds of said Nation among the citizens thereof by distribution per capita, the defendant, the Cherokee Nation and the defendant, the United States, as trustee of the Cherokee Nation, be enjoined and prohibited from making any discrimination between the said persons so placed on the said Kern-Clifton Roll and other Cherokee Citizens. And it appearing to the Court that the roll made by the Dawes Commission and approved by the Secretary of the Interior does not include and contain the names of the following Freedmen and Free Colored Persons of the Cherokee Nation who were living and in being on May 3, 1894, and whose names were placed on the roll of the said Nation by the Kern-Clifton Commission under the decree of this Court of February 3d, 1896, and which decree was assented to by the Cherokee Nation and accepted by said parties as true and correct:

And it further appearing that the Secretary of the Interior has not permitted and is not permitting any of the

said Freedmen and Free Colored Persons above set out to participate with the other citizens of the Cherokee Nation in the distribution of its common property.

It is therefore ordered, adjudged, and decreed that the Secretary of the Interior be, and he hereby is, enjoined and directed to place upon the roll of citizens of the Cherokee Nation, authorized and directed by the Acts of June 28, 1898; July 1, 1902; April 26, 1906; the names of as many of the said Freedmen and Free Colored Persons and the names of as many of their descendants, born after the 3d day of May, 1894 and before the 4th day of March, 1907 as may have been living on the 3d day of March, 1907.

It is further ordered, adjudged and decree that the Secretary of the Interior be, and he hereby is, enjoined and directed to pay to each of the said persons so placed on the said final roll of citizens of the Cherokee Nation their proportionate share of any monies belonging to the said Nation that may have been, since June 28, 1898, or may hereafter be, distributed per capita, among the citizens of said Nation, and to allot to each of them their proportionate share of the lands of said Nation, and in taking said allotments each of said persons shall have the same rights, immunities and privileges in the matter of homestead selections and in all other respects as has been or is provided by law for other citizens of said Nation.

By the Court.

FILED FEBRUARY 20, 1911.

DISPOSITION ERRORS MADE BY THE COURT OF CLAIMS.

Under the Court of Claims' Rule 71 (d), whenever a certified transcript of the record is requested by either party for the purpose of filing a petition for a Writ of Certiorari, the clerk shall prepare and certify the following documents: Commissioners' Report, Findings of Fact, Conclusions of Law and Judgment and Opinion of the Court. The transcript that was paid for by the Plaintiffs and sent to their attorney-of-record contained none of these documents.

The U.S. Court of Claims disregarded and violated its own rules, revised April 1, 1964, in the following:

1. Section (d) of Rule 4, "Entitled Action by the Court", paragraph (d), Section (2), quote, "Commissioners' recommendations for conclusion of law on dispositive motions (Rule 55 (b) and Commissioners' reports, (Rule 58) will be acted upon only with the *concurrence* of at *least three judges*". The Order mailed by the clerk of the Court of Claims contained the *typewritten* name of only one judge.
2. The said Courts' Order was not certified by the Chief Clerk as is required by the rules of said Court.
3. The Order of said Court did not bear the Official Seal of the U.S. Court of Claims.
4. Upon the filing of the Commissioners' recommendation, the CLERK SHALL MAIL A NOTICE OF THE FILING AND 5 COPIES of the recommendation to each party, as provided by Rule 7. The Attorney-of-Record for Plaintiffs received *NO* copies of the Commissioners' recommendation. He received only ONE UN-SIGNED CARBON COPY OF THE DISMISSAL ORDER.

DOCUMENTS.

V.

The Plaintiffs desire to present to the Court to aid in clarifying and correcting the record the following documents:

1. Nine Land Certificates issued by the Dawes Commission.

2. U.S. Court of Claims Decree No. 17209, containing the names and roll numbers of the following Plaintiffs, their heirs or ancestors:

Robinson, William	3013
Robinson, Nicey	3014
Robinson, Eva	3015
Robinson, Jim	3016
Robinson, Jeanette	3017
Robinson, Charles	3018
Robinson, Amanda	3019
Robinson, John	3020
Robinson, Olive	3021
Robinson, Josie	3022
Brown, Josie, nee Adair	3436

3. Rejected Roll, R 624, showing the Robinson Plaintiffs.

VI.

CONCLUSION.

These Plaintiffs' names or their heirs or their ancestors appear on all of the authorized roll including the Authenticated Cherokee Roll of 1880, except the final roll of 1907, where their roll numbers appear but their names have been omitted by the Successors to the Dawes Commission. On pages 492 and 493 of said Cherokee Freedmen Final Roll Approved March 4, 1907.

We believe that the questions presented are so substantial as to require plenary consideration, with briefs on the merits and oral argument.

Respectfully submitted,

RICHARD L. GUNN,
1404 E. 9th,
Cleveland, Ohio 44114,
Attorney for Petitioners.

(Documents in Envelope on back cover)

COURT OF CLAIMS OF THE UNITED STATES.

LOCKE WHITMIRE, TRUSTEE, ETC., vs. THE UNITED STATES AND THE CHEROKEE NATION.
No. 17209.

I, ARCHIBALD HOPKINS, Chief Clerk of the Court of Claims, do hereby certify that the annexed pages, numbered from One to Fourteen inclusive, are a true copy of the DECREE of said Court of February 20, 1911, in the above-entitled cause.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the Seal of said Court at Washington, D. C., this sixth day of May, A. D. 1911.

Archibald Hopkins
Chief Clerk.

COURT OF CLAIMS.

Moses Whitmire
vs.
The United States et al

No. 17,209.

In this case the Court ordered that the following decree be entered:

It is therefore, this twentieth day of February, 1911, ordered, adjudged and decreed by the Court that the said decree of this Court passed on the third day of February, 1896, be, and the same hereby is, construed to vest in all the persons whose names were placed on the roll made in obedience to said decree, known as the Kern-Clifton Roll, and in their descendants, born after the 3d day of May, 1894, and before the 4th day of March, 1907, the right of citizenship in the Cherokee Nation, and that so many of said persons and their said descendants as were living on the 4th day of March, 1907, were and are entitled to participate in the allotment of the common lands and the distribution of the common funds of said Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood or parentage may have been or may be hereafter entitled, and that in any distribution of the common lands or the common funds of said Nation among the citizens thereof by distribution per capita, the defendant, the Cherokee Nation and the defendant, the United States, as trustee of the Cherokee Nation, be enjoined and prohibited from any discrimination between the said persons so placed on said Kern-Clifton Roll and other Cherokee citizens. And it appearing to the Court that the roll made by the Dawes Commission and approved by the Secretary of the Interior does not include and contain the names of the following Freedmen and Free Colored Persons of the Cherokee Nation who were living and in being on May 3, 1894, and whose names were placed on the roll of the said Nation by the Kern-Clifton Commission under the decree of this Court of February 3d, 1896, and which was assented to by the Cherokee Nation and accepted by the parties as true and correct:

Name.	Acre Clifton No.
[illegible] y, Carrie	3
Burgess, William	34
Anderson, Jane, nee Burgess	38
Hall, Amanda, nee Da[illegible]	54
Rowe, Louis	82
Rowe, Chaney	83
Buffington, Florence	86
Buffington, Ishmas	87
Buffington, Henrietta	88
Vann, Sank (or Sam)	124
Vann, Albert	129
Lynch, Fredonia	136
Thompson, Ellen	140
Thompson, Hamay	141
Thomas, Stella	144
Ross, Lizzie	146
Ross, Tom	150
Foster, Lavinia, alias Mary	158
Foster, Martha	162
Foster, Sue	164
French, Linda	166
Downing, Lou	182
Kirk, Emma	185
Sanders, Polly	193
Foster, Jetta	208
Goody, Louis	214
Taylor, Mary	235
Taylor, Fred	236
Taylor, [illegible]ary	239
Lasley, Geo. W	255
Lasley, Clara	259
Williams, Judy	270
Foster, Cora	276
Bean, Maud	285
Vann, Melgy	298
Martin, Ralph	313
Vann, Took	319
Frye, Viola	326
Frye, Harvey	330
Bryan, Nancy	341
Weber, Davis	348
Weber, George Henry	351
Whitmire, Dick	357
Whitmire, Walter	358
Murrell, Sarah	361
Murrell, Daisy	362
Murrell, Susan	369
Vann, Eli	373
Vann, Polly, nee Rider	374
Rider, Lena	380
Roder, Mabel	382
Rider, Frank	383
Leek, Albert	398
Bean, Evey	403
Williams, Arthur	418
Landrum, Clida	433
Landrum, Pravies	434
Landrum, Sam	439
Sutton, Sallie	441
Lampton, Eliza, nee Adair	446
Hughes, Sarah	452
Landrum, Andy	464
Landrum, Lono	465
Bean, Evey	479
Vann, James	302

Name.	Clifton No.
Lynch, Martha	507
Vann, Sarah	514
Bean, Rufus	516
Eaton, Lucy	520
Eaton, Loney	521
Johnson, Rachel	533
Dennis, Isabel	547
Dennis, Bertha	548
Dennis, Laura	549
Dennis, Amanda	550
Dennis, Clem	553
Adams, Cora	557
Adams, Grant, alias Emanuel	560
Adams, Cora, dup. of No. 557	562
Adams, Grant, dup. of No. 560	565
Adams, Jesse	566
Foreman, Lester	573
Mayo, Flora	574
Gibson, Luther	575
Vann, William	577
Vann, Alice, or Sarah	578
Landrum, or Johnson, Sidney	583
Johnson, John	586
Chambers, Charles	590
Brown, Jesse	601
Brown, Lucinda	602
Brown, Lubertha	604
Brown, Oce	606
Brown, Mary	608
Grimmett, Cora	616
Grimmett, Lewis	618
Ward, William	629
Vann, Upton	634
Pack, Willie	650
Peterson, Josie, nee Whitmire	655
Moore, John	695
Mayo, Rosella	701
Rogers, Dick	711
Martin, Elizabeth	716
Whitmire, Kate	723
Mayo, Lucinda	736
Wright, Lucinda	745
Vann, Sam	760
Weber, Rosie	763
Ratcliffe, Eliza	788
Rider, Lucy	797
Vann, Henry	806
Vann, Lamon	814
Woodward, James	820
Markham, Willis	837
Ross, Fith	853
Vann, George	859
Rogers, Lizzie (wife of Ben Vann	860
Wright, Louis	877
Anderson, Hannah	889
Vann, Jennie	893
Anderson, Lucy	896
Rogers, Sydney	901
Webber, Dug	908
Webber, Amanda	910
Stidman, Dolly	913
Stidman, Tom or Will	915
Johnson, Mary	918
Mayo, William	685

Lasly, Andy..... 937
Thornton, Nancy..... 951
Jones, May..... 964
Sheppard, Thomas..... 971
Beck, James..... 975
Beck, Jannie..... 977
Grimmett, Lillie..... 984
Nevins, John..... 990
Tucker, Mannie..... 1006
Riley, Louisa, dup. No. 2199.. 1007
Riley, Dave, dup. No. 2200.. 1008
Ross, Ruth..... 1021
Fields, William..... 1035
Mackey, Amanda..... 1036
Austin, Louis..... 1039
Tyner, Nancy, nee Nevins, 1044
Tyner, Ed..... 1045
Tyner, Jessie..... 1046
Smith, Esther, nee Vann... 1049
Walker, Violet, now Ross.... 1054
Brewer, Andrew..... 1062
Brewer, Jannie..... 1063
Schrimsher, Maud..... 1064
Schrimsher, Mary..... 1065
Brown, John..... 1076
Walker, John..... 1089
Walker, Ada..... 1090
Lowery, Jeannett..... 1105
Smith, Tenah..... 1112
Vann, David..... 1116
Williams, Henry..... 1122
Alberty, Delian..... 1131
Alberty, Ruben..... 1133
Wilson, Isaac..... 1138
Wilson, Peggie..... 1141
Davis, Abe..... 1148
Davis, Will..... 1149
Parks, Nellie..... 1170
Parks, Mack..... 1171
Nevins, Patsy..... 1180
Vann, Butler..... 1181
Vann, Derce..... 1187
Thompson, Peg, nee Vann..... 1203
Ford, Carrie, nee Brewer.. 1220
Sanders, Norah..... 1222
Sanders, Sarah..... 1223
Lee, Annie..... 1227
Nave, Henry..... 1228
Thompson, Rube..... 1237
Johnson, Aaron..... 1253
Cornish, Tom..... 1255
Thompson, Mose..... 1257
Mackaye, Crockett..... 1258
Sheppard, Wash..... 1263
Sheppard, Curtis..... 1265
Mayfield, Nellie..... 1269
Mackey, Jennie..... 1277
Bean, Mary..... 1291
Ross, Mary..... 1303
Aldrich, Dennis..... 1328
Pin, Sarah, nee Bean..... 1330
Petitt, Eben..... 1337
Humphries, Bennie..... 1342
Hudson, Emma..... 1345
Vann, Ed..... 1356
Vann, Judy..... 1357
Thompson, Esther..... 1358
Johnson, Aaron, dup. No. 1253. 1387
Johnson, Emmett..... 1388
Nave, or Watson, Dave..... 1724

Mackey, Alice..... 1392
Brown, Josephine..... 1404
Brown, Joseph..... 1409
Vann, Solomon..... 1410
Vann, Dennis..... 1411
Vann, Jeanna..... 1412
Vann, or Young, Gus..... 1424
Vann, William or Jacob.... 1425
Vann, Rachel..... 1435
Vann, Walter..... 1444
Vann, Crow..... 1447
Vann, Rose..... 1448
Landrum, Cudge or Carrie... 1456
Landrum, Clarence..... 1457
Landrum, Joe..... 1458
Coody, Lydia..... 1489
Keys, Dora..... 1490
Keys, Phoebe..... 1494
Thompson, Cora, nee Carter.. 1500
Carter, Will..... 1501
Drew, Willie..... 1523
Drew, Allie..... 1524
Drew, Gussie..... 1526
Drew, Jennie..... 1528
Smith, Ibby..... 1529
Smith, Vash..... 1530
Crossland, Abe..... 1543
Crossland, Morris..... 1549
Ford, Julia, nee Vann..... 1553
Ford, Van..... 1554
Shepard, Sue..... 1567
Foreman, Delilah..... 1578
Brown, Fannie..... 1586
Brown, Robert..... 1588
Whitmire, Turner..... 1592
Whitmire, Polly..... 1594
Whitmire, Ella..... 1595
Johnson, Frank..... 1598
Johnson, Harvey..... 1601
Drew, Henrietta..... 1616
Mackey, Kate..... 1625
Snow, Willie..... 1636
Glass, Millie or Foreman.. 1653
Laflace, Jake..... 1671
Schrimsher, Fred..... 1672
Schrimsher, William..... 1678
Mackey, Perry, jr..... 1682
Jones, Mary, nee Mackey..... 1683
Baldridge, Peter..... 1687
Brewer, Frances..... 1690
Brewer, Catherine..... 1691
Crossland, Ella..... 1694
Vann, Lucinda, nee Shepard.. 1701
Webber, Bertha, dup. No. 794.. 1713
Nave or Watson, Cora..... 1722
Nave or Watson, Jane..... 1723
Nave or Watson, Walter..... 1725
Taylor, Patsy..... 1727
Crossland, Sally, nee Vann.. 1730
Crossland, Lula..... 1731
Riley, Sol..... 1761
Riley, Lucinda..... 1762
Riley, Charles..... 1770
Riley, William..... 1768
Drew, William..... 1795
Walker, Lizzie, nee Drew.... 1797
Crapo, Butler..... 1805
Fields, Mary..... 1808
Fields, Emma..... 1809
Bongo, Meg..... 1821
Wright, Maggie..... 1829

Sheets, George	1838
Sheets, James	1839
Crapo, Eva	1847
Beck, Alex	1853
Crapo, Joanna	1875
Hayes, Mary, nee Foreman	1881
Mackey, Rose	1886
Alberty, Irvin	1894
Alberty, Mollie	1895
Ross, Ellis	1899
Wann, Charles	1900
Parris, Henry	1911
Brown, Francis, dup.1690	1933
Ross, Laura	1956
Irons, Jerry	1966
Irons, Ned	1970
Ross, Ann	1989
Ross, Lucy, nee Whitmire	1990
Dydas, Rachel, nee Grimmett	1995
Johnson, Maud	2004
Fields, Simon	2006
Fields, Simon	2008
Ross, John	2013
Fields, Mary	2016
Johnson, Evan	2017
Warford, Sam	2032
Warford, Ed	2034
Warford, Jim	2035
Warford, Melzie	2043
Johnson, Sidney, dup.583	2045
Johnson, Johnson, dup.586	2046
Keys, Louis	2063
Fagle, Kathleen	2066
Irons, Dora	2078
Carter, Maria	2081
Carter, Dick	2084
Carter, Calvin	2085
Sheppard, Josh	2089
Sheppard, Andrew	2090
Sheppard, Samuel	2091
Sheppard, Nancy	2092
Sheppard, Joel	2094
Whitmire, Ronnie	2100
Whitmire, Alice	2105
Pettitt, Will	2117
Smith, Joe	2124
Hicks, Phoebe	2129
Fields, Kate	2172
Fields, Abe	2173
Walker, Violet Ross, duplicate of No. 1054	2187
Williams, David	2198
Williams, Lou, nee Riley	2199
Williams, Davis	2200
Theadore, Edward	2224
McCracken, Samuel	2247
Wilson, Sarah	2268
Campbell, Sophia	2253
Lipe, Jack	2259
Johnson, Sarah	2264
Johnson, Mary	2277
Johnson, Lula	2278
Mays, Berry	2282
Lowrey, Chaney, nee Collins	2285
Johnson, Lincoln	2299
Parris, Amanda, nee Griffin	2302
Gentry, Frances, now Parris	2310
Martin, Wilson	2332
Johnson, Luella	2346
Benton, Sam	2352
Benton, Eddie	2353
Benton, Tom	2354
Depey, Tobie	2356
Whitmire, Jess	2380
Whitmire, Jim	2381
Whitmire, Matt	2382

Jones, Sallie	2217
Johnson, Malissa	2331
Price, Ella	2382
Price, Emma	2383
Davis, Eliza, nee Jones	2407
Skates, Ruth	2431
Ripcan, Tom	2432
Alberty, Josh	2433
Alberty, Mable	2434
Leak, Ed. or	2443
Alberty, James	2449
Alberty, Lolo	2452
Daniels, Ransom	2454
Carter, Henry	2460
Carter, Tena	2461
Carter, George	2462
Carter, Mary	2463
Blanket, Saddle	2465
Saddle Blanket, Matt	2466
Johnson, James	2469
Johnson, Matt	2470
Scales, Johnnie, nee Theadore	2471
Frog, Tobacco Will	2472
Smith, Delilah	2480
Smith, Cash	2487
Mayo, Charles	2488
Hayes, Charles, dup.No.685	2489
Foster, Rebecca	2500
Foster, Jennie	2502
Mayfield, John	2510
Meiga, Peter	2511
Meiga, Eliza	2512
Meiga, Mary	2513
Beck, Dona	2515
Beck, Harvey	2516
Meiga, Alice	2517
Meiga, Simon	2519
Meiga, Nathan	2520
Meiga, Hattie	2521
Meiga, Kate	2522
Meiga, Turner	2523
May or Landrum, Callus	2524
May or Landrum, Millie	2525
Whitmire, Daniel	2526
Fox, Enau	2527
Fox, Nancy	2528
Fox, Angoline	2529
Fox, Eliza	2530
Fox, Ollie	2531
Fox, Joe	2532
Fox, Arthur	2533
Fox, Hattie	2534
Mays, Lucan	2535
Mays, Dave	2537
Martin, Fred	2540
Gibson, Louis	2544
Gibson, Napoleon	2545
Gibson, Will	2546
Hayden, Marie	2555
Buckner, Arthur	2556
Buckner, George	2558
Buckner, Sarah	2559
Buckner, Ella	2567
Davis, Jack	2567
Davis, Carrie	2568
Davis, John	2569
Blackburn, Ellen	2570
Davis, Will	2571
Bowlen, Arolin	2575
Allen, George	2583
Rogers, Isaac	2587
Rogers, Eddie	2588
May, Martha	2589
May, Amanda	2590
Rogers, Florence	2591
Rogers, Clyde	2592

Johnson, [illegible] 2590
McIntosh, Bertha 2595
McIntosh, Bennie 2596
Ross, Julia 2603
Ross, Patsy 2604
Grayson, Clara 2605
Grayson, Louisa 2606
Grayson, Mary 2607
Grayson, George 2608
Grayson, Garfield 2609
Grayson, Lucy 2610
Markham, Addie 2612
Rider, John 2613
Wright, Savilla 2620
Wright, Louis, dup. No. 877 2623
Vann, Isaac 2624
Scott, Carrie 2629
Grimmett, Joe 2632
Eastman, Isaac 2633
Vann, Sam 2642
Johnson, Israel 2643
Vann, Frank 2650
Smith, Lucinda 2655
Smith, Willie 2656
Smith, Amanda 2657
Smith, Bell 2658
Smith, Annie 2659
Smith, Lizzie 2660
Smith, Kate 2661
Smith, Fannie 2662
Smith, George 2663
Ross, Amanda 2664
Martin, Jennie 2667
Jenkins, George 2672
Mackey, Leroy 2681
Mackey, Floyd 2682
Smith, Annie 2684
Smith, Ida 2685
Ford, Rhoda 2687
Ford, Joe 2689
Ford, Frank 2690
Ford, Wilson 2691
Jones, Annie 2692
Jones, Nancy 2693
Jones, George 2694
Mackey, Alice 2695
Tyner, John 2705
Fields, W. H. 2707
Fields, Elias 2708
Rankin, Wren 2709
Rankin, Nat 2710
Rankin, Birdie 2711
Rankin, Tom 2712
Gentry, Eli 2713
Gentry, Arizona 2714
Gentry, Bernice 2715
Gentry, Ellis 2716
Gentry, Ed 2717
Vann, Nancy 2719
Vann, Henry 2720
Gales, Mattie 2726
Brown, Susie 2729
Williams, Ed 2741
Humphries, Nancy 2746
Humphries, Tom 2747
Humphries, Will 2748
Humphries, Gentry 2749
Dean, Mary 2750
Humphries, Joe 2751
West, Dave 2752
West, Ollie 2769
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Groom, Eliza	3995
Harper, William	4002
Harper, Jim	4003
Coody, Katie	4013
Waite, Mary Ann	4014
Hazelridge, Mary	4015
Hazelridge, William	4016
Hazelridge, Mary	4017
Hazelridge, Jessie or Josa	4018
Hazelridge, Lacey	4019
Hazelridge, Alex	4020
Hazelridge, Joe	4021
Hazelridge, J.Milton Turner	4022
Gunter, Harry	4023
Gunter, Henrietta	4024
Phillips, Ben	4140
Walker, Charles	4141
Bean, Jake	4142
Bean, Bertha	4143
Martin, Beatie	4144
Martin, Houston	4145
Martin, Sallie	4146
Martin, Tobe	4147
Martin, Fred	4148
Martin, George	4149
Martin, Louis	4150
Tucker, Ellenor Ella	4152
Whitmire, Lucinda	4154
Foster, William	4159
Banks, Lettie	4167
Banks, Willie	4168
Banks, Irene	4169
Ross, Jacob	4170
Ross, Maria	4171
Ross, Ella	4172
Ross, Emma	4173
Ross, George	4174
Ross, Rose	4175
Tucker, Sarah, nee Ross	4176
Tucker, Oscar	4177
Ross, Willie	4179
Murrell, Nelson	4184
Murrell, Henry	4185
Murrell, Charles	4186
Murrell, John	4187
Murrell, Jesse	4188
Murrell, Willie	4189
Murrell, Nola	4190
Martin, David	4191
Martin, Lurenn, nee Peterson	4192
Martin, Charity	4193
Martin, Fred	4194
Martin, Mary	4195
Martin, Josie	4196
Martin, Will	4197
Martin, Eliza	4198
Vinton, Joe	4199
Mays, Cynthia	4200
Mays, Beatrice	4201
Williams, Lizzie	4202
Roach, Jess	4203
Patterson, Annie	4204
Thompson, Dan	4205
Blackwell, Lucinda	4206

Melton, Mary, dup., No.3655.	4110
Melton, Wash. dup., No.3656.	4111
Powell, Emma	4112
Alberty, Will	4113
Alberty, Sarah	4114
Alberty, Anetta	4115
Bell, Hattie	4116
Ross, Gertie	4117
Powell, Lula	4118
Ross, Guster	4119
Powell, Mamie	4120
Powell, Jess	4121
Robinson, Fred	4122
Alberty, Frank	4123
Webber, Lou	4124
Webber, Walter	4125
Webber, John	4126
Webber, Tom	4127
Webber, Joe	4128
Webber, Lula	4129
Webber, Emma	4130
Webber, Willie	4132
Ross, Joe	4133
Phillips, Martha	4134
Phillips, Bessie	4135
Phillips, Charles	4136
Phillips, Alice	4137
Phillips, Will	4138
Childers, Paul	4139
Childers, Noah	4235
Childers, Jay	4236
Childers, Samantha	4237
Yann, Ibbie	4238
Adams, Mattie	4239
Sanders, John	4240
Hayes, Phillis	4241
Hayes, Louis	4242
Hayes, Frank	4243
Cash, Bettie	4244
Cash, Gussie	4246
Cash, Will	4247
Cash, Oce	4248
Cash, John	4249
Cash, Ethel	4250
Cash, Hester	4251
Brewer, Sam	4252
Looney, Doson	4253
Looney, Jane	4254
Wright, Francis	4255
Looney, Henry	4256
Allen, Ellen	4257
Looney, John	4258
Looney, Rosetta	4259
Whitmire, Lucinda	4260
Whitmire, Alice	4261
Whitmire, Henry	4262
Looney, George	4263
Beason, Essie	4264
Beason, Bonnie	4265
Sanders, Squire	4266
Sanders, Will	4267
Sanders, Cora	4268
Sanders, Berry	4269
Sanders, Rosella	4270
Sanders, Fannie	4271
Sanders, Fred	4272
Sanders, Ike	4273
Sand[illegible] Sam	4274
Pa[illegible] [illegible]te	4275
Pack, Will	4276
Pack, Signora	4277
Pack, Fannie	4278
	4279

Ross, Tom	4207
Coody, Louis	4208
Coody, Jack	4209
Coody, Manda	4210
Tinnon, Dicey	4211
Tinnon, Louis	4212
Tinnon, Lunnie	4213
Tinnon, Gertie	4214
Sorrell, Mattie	4215
Sorrell, Morris	4216
Sorrell, Richard	4217
Sorrell, Vinita	4218
West, Carrie	4219
Thomas, Willie	4220
West, Laura	4221
Riley, Mary	4222
Rider, Dora	4223
Rider, Adline	4224
Thompson, George	4225
Thompson, Rhoda	4226
Thompson, John	4227
Thompson, Sallie	4228
Thompson, Jess	4229
Thompson, James	4230
Thompson, George	4231
Leak, Elizabeth	4232
Lowery, Thomas	4233
Hardrick, Mabel	4234
Thompson, Dollie	4376
Thompson, Mary	4377
Thompson, Liddy	4378
Thompson, Lila	4379
Thompson, Carrie	4380
Lowery, Josh	4383
Hall, Florence	4384
Hall, Florence	4385
Hall, Med	4386
Hall, Mary	4387
Hall, Martha	4388
Cucumber, Sallie	4391
Jones, Anna	4399
Hampton, Adeline	4402
Kimbrough, Hannah	4404
Kimbrough, Mary Ann	4405
Buffington, Georgia	4406
Buffington, Billie	4407
Buffington, Lula Kay	4408
Buffington, Charles	4409
Buffington, Annie	4410
Buffington, Mossie	4411
Buffington, Willie	4412
Buffington, Robert	4413
Buffington, Gracie	4414
Buffington, William	4415
Buffington, William H	4416
Buffington, Rosa	4417
Buffington, Ruth	4418
Buffington, John	4419
Buffington, Bessie	4420
Buffington, Roy	4421
Buffington, Levie	4422
Buffington, Hector	4423
Buffington, Saloron	4424
Webber, Frank	4425
Beck, Charlotte	4426
Beck, George	4427
Daniels, Andrew	4428
Daniels, Willie	4429
Daniels, Louis	4430
Daniels, Tom	4431
Daniels, Susie	4432
Daniels, [illegible]	4433

Pack, Tom	4280
Pack, Howard	4281
Pack, Alberta	4282
Pack, Clarence	4283
Pack, Sarah	4284
Pack, Tom	4285
Pack, Mary, now Meadows	4286
Pack, Annie	4287
Webber, Margaret	4288
McNair, or Riley, Maria	4290
Johnson, Harry	4317
Johnson, Callie	4318
Allen, Millie	4336
Hamilton, Andrew	4340
Hare, Abraham	4341
Ratcliff, Ellis	4342
Ratcliff, Oscar	4343
Ratcliff, Nathan	4344
Ratcliff, Irwin	4345
Seals, Mose	4346
Fields, Catherine	4348
Chouteau, Louis	4350
Thornton, Grant	4354
Ford, John	4358
Ford, Dennis	4360
Barker, Royal	4361
Sanders, Grove	4363
Sanders, Lizzie	4365
Smith, Clem	4366
Landrum, Sophronia	4367
Woodard, Hester	4368
Mackey, Georgie	4372
Mackey, Mattie	4374
Duffin, Frances	4375
Duffin, Geo. B	4485
Duffin, Josh	4486
Duffin, Frank	4487
Mays, Eliza	4488
Daniels, Harry	4489
Daniels, Margaret	4490
Daniels, Ransom	4491
Daniels, Maggie	4492
Daniels, Joseph	4493
Daniels, Harry, jr	4494
McNair, Cynthia	4495
McNair, Mary	4496
McNair, George	4497
McNair, Willie	4498
McNair, Roscila	4499
McNair, Alfred	4500
Bell, George	4501
Bell, July	4502
Harris, Agnes	4503
Harris, Billy	4504
Harris, Dave	4505
Harris, Charles	4506
Harris, Silas	4507
Harris, Mamie	4508
Harris, Minnie	4509
Harris, Isaac	4510
Walker, George	4511
[illegible], Sarah	4512
	4513

Daniels, Minnie	4452
Daniels, Burrell	4453
Daniels, Burrell Henry	4454
Daniels, Mack	4455
Daniels, Lizzie	4456
Daniels, Robert	4457
Newton, Mary	4458
Newton, Lizzie	4459
Daniels, Louis	4460
Daniels, Abraham	4461
Daniels, Tom	4462
Bell, Tom	4463
Bell, Tensie	4464
Bell, George C	4465
Bell, Viola	4466
Bell, Effie	4467
Bell, Emily Jane	4468
Brown, Loretta	4469
Bell, Nancy Ann	4470
Lewis, Georianna	4471
Lewis, Tennessee	4472
Williams, Benney	4473
Williams, Matty	4474
Bell, Arthur	4475
Moss, Sarah	4476
Moss, George	4477
Moss, Julia	4478
Moss, Sanford	4479
Moss, Howard	4480
Moss, Samantha	4481
Moss, Rutherford	4482
Moss, Elmira	4483
Moss, Dwight	4484
Mays, Eva	4514
Mays, Cora	4515
Mays, Jesse	4516
Mays, Homer	4517
Mays, Lurena	4518
Mays, Andrew	4519
Hill, Senia	4520
Hill, Rebecca	4521
Hill, John	4522
McPherson, Betsy	4523
Watson, Mary	4524
Watson, Leo	4525
Watson, May	4526
McLish, Lurena	4527
Tucker, John	4528
Tucker, Johnnie	4529
Tucker, Joseph	[illegible]
Brown, Hannah	[illegible]
Brown, Myrtle	[illegible]
Daniels, Jim	[illegible]
Daniels, Emaline	[illegible]
Daniels, Nancy	[illegible]
Sanders, Mary	[illegible]
Vann, Sam	[illegible]
Brown, Lula	[illegible]
Rogers, Sam	[illegible]
Alexander, Phillip	[illegible]
Rog[illegible], Jim	[illegible]
La[illegible], Alice	[illegible]

And it further appearing that the Secretary of the Interior has not permitted and is not permitting any of the said Freedmen and Free Colored Persons above set out to participate with the other citizens of the Cherokee Nation in the distribution of its common property.

It is therefore further ordered, adjudged, and decreed that the Secretary of the Interior be, and he hereby is, enjoined and directed to place upon the roll of citizens of the Cherokee Nation, authorized and directed by the Acts of June 28, 1898, July 1, [illegible], the names of as many of the said Freedmen and Free Colored Persons and the names of as many of their descendants, born after the 3d day of May, 1894 and before the 4th day of March, 1907 as may have been living on the 3d day of March, 1907.

It is further ordered, adjudged and decreed that the Secretary of the Interior be, and he hereby is, enjoined and directed to pay to each of the said persons so placed on the said final roll of citizens of the Cherokee Nation their proportionate share of any monies belonging to the said Nation that may have been, since June 28, 1898, or may hereafter be, distributed per capita among the citizens of said Nation, and to allot to each of them their proportionate share of the lands of said Nation, and in taking said allottments each of said persons shall have the same rights, immunities and privileges in the matter of homestead selections and in all other respects as may be or is provided by law for other citizens of said Nation.

By the Court

FILED FEBRUARY 20, 1917.

DEPARTMENT OF THE INTERIOR

Commission to the Five Civilized Tribes

Roll Number

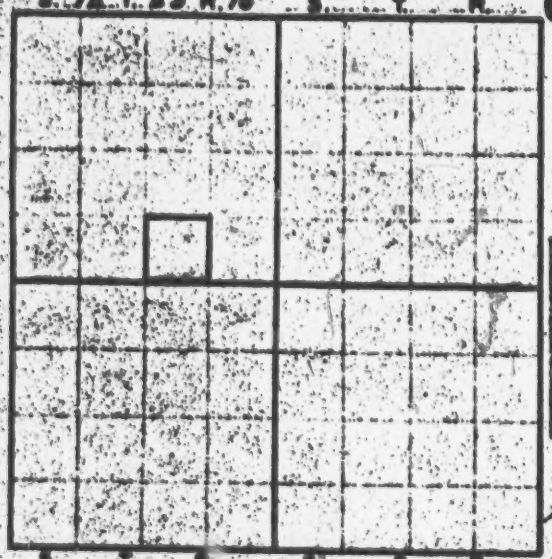
Cherokee Roll | Freedmen Roll

3144

Certificate of Allotment

Certificate No. 37759

S. 12 T. 23 N. R. 16 E. S. T. N. R. E. CHEROKEE LAND OFFICE



Tahlequah, I.T. Feby 23 1905

This certifies that Estella Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
NW of SE ¼	12	23	16

containing 40 acres more or less as the case may be according to the United States survey thereof. Total appraised value of land described in this certificate $160.00

This certificate is not transferable.

Commission to the Five Civilized Tribes.

Chairman

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 12 1957

Notary Public

STANDARD BLUE PRINT COMPANY
1411 Harney St. Omaha, Nebr.

DEPARTMENT OF THE INTERIOR
Commissioner to the five Civilized Tribes

Roll Number
Cherokee Roll | Freedmen Roll
3446

Certificate of Allotment

Certificate
No 57646

S. 28 T. 22N R. 21 E. I. M.

S. T. R. | S. T. R.

CHEROKEE LAND OFFICE

Tahlequah, I. T. Oct 21st 1905

This certifies that Cecil Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
NE¼ of NE¼ of SE¼ of	28	22	21

containing 10 acres more or less as the same may be according to the United States survey thereof. Total appraised value of land described in this certificate $ 30

Commissioner to the five Civilized Tribes.

This certificate is not transferable.

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 12 1951

Notary Public

STANDARD BLUE PRINT COMPANY
1411 Harney St. Omaha, Nebr.

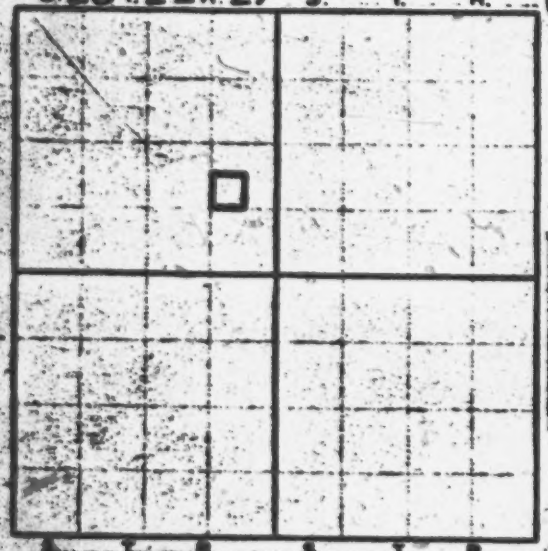
DEPARTMENT OF THE INTERIOR
Commissioner to the five Civilized Tribes.

Roll Number
Cherokee Roll | Freedmen Roll
3444

Certificate of Allotment.

Certificate
No. 57848

S. 28 T. 22 N. R. 21 E.



CHEROKEE LAND OFFICE

Tahlequah, I.T. Oct 12 1905

This certifies that Myrah E Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
W½ of NE¼ of SE¼	28	22 N	21 E

containing 10 acres more or less as the same may be according to the United States survey thereof. Total appraised value of land described in this certificate $ 50

This certificate is not transferable.

Commissioner to the five Civilized Tribes.

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 8/12 1957

Notary Public

STANDARD ELITE PRINT COMPANY

DEPARTMENT OF THE INTERIOR

Commission to the Five Civilized Tribes.

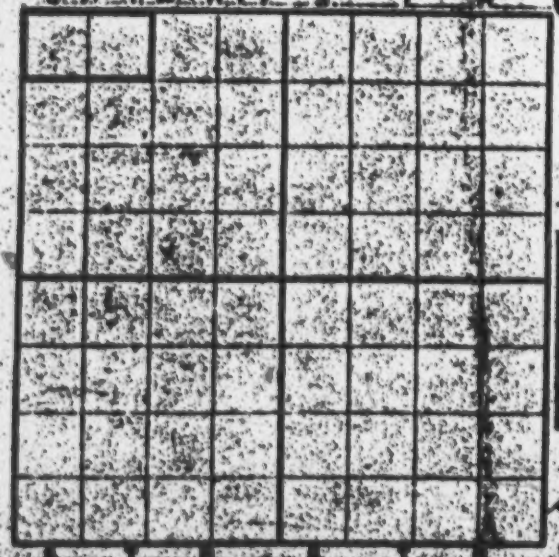
Roll Number

Cherokee Roll	Freedmen Roll
	3445

Certificate of Allotment.

Certificate No. 47847

S. 14 T. 24 N. R. 17 E.



CHEROKEE LAND OFFICE

Tahlequah, I.T. May 4th 1905

This certifies that Ora Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
W½ of NW¼ of	14	24	17

containing 80 acres more or less as the same may be according to the United States survey thereof. Total aggregate number of land described in this Certificate, 200 00/100

This certificate is not transferable

Commission to the Five Civilized Tribes.

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

Notary Public

STANDARD BLUE PRINT COMPANY

DEPARTMENT OF THE INTERIOR
Commissioner to the five Civilized Tribes.

Roll Number
Cherokee Roll | Freedmen Roll
3 of 4 of 4

Certificate of Allotment.

Certificate
No. 57645

S. 27 T. 21 N. R. 22 E. S. T. R.

CHEROKEE LAND OFFICE

Tahlequah, I.T. Oct. 24th 1905

This certifies that Estella Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
West of NW¼ of NE¼ of	27	21	22

containing 10 acres more or less as the case may be, according to the United States survey thereof. Total appraised value of land described in this certificate $ 50

S. T. R. S. T. R.

This certificate is not transferable.

Commissioner to the five Civilized Tribes.

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 8/13/95

Notary Public

STANDARD BLUE PRINT COMPANY
1411 Harney St. Omaha, Nebr.

DEPARTMENT OF THE INTERIOR

Commissioner to the Five Civilized Tribes

Roll Number

Cherokee Roll | Freedmen Roll

3444

Certificate of Allotment.

Certificate No. 37760

S. 35 T. 25 N. 17 E. S. T. R.

CHEROKEE LAND OFFICE

Tahlequah, I.T. Feb. 23 1905

This certifies that Estella Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
NW¼ SE¼ NW¼	35	25	17

containing 10 acres, more or less as the case may be according to the United States survey thereof. Total appraised value of land described in this certificate $ 40

S. T. R. S. T. R.

This certificate is not transferable.

Commission to the Five Civilized Tribes.

Commissioner

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 1957

Notary Public

STANDARD BLUE PRINT COMPANY
1411 Harney St. Omaha, Nebr.

DEPARTMENT OF THE INTERIOR
Commission to the Five Civilized Tribes.

Roll Number
Cherokee Roll | Freedmen Roll
1 | 3444

Certificate of Homestead Allotment.

Certificate No. 26071

s. 35 t. 25 n. 17 e. s. ___ t. ___ n. ___ e.

CHEROKEE LAND OFFICE

Tahlequah, I. T. Dec. 23 1905

This certifies that Estella Martin has this day selected the following described land as a HOMESTEAD, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
E½ of NE¼ of NW¼ of	35	25	17

containing 30 acres more or less as the same may be according to the United States Survey thereof. Total appraised value of land described in this certificate $120

This certificate is not transferable

Commission to the five Civilized Tribes.

Chairman.

CERTIFICATION

This is a true photographic copy with no additions, commissions, interlineations or alterations and is in keeping with original.

Date 1-31-1957

Notary Public

STANDARD BLUE PRINT COMPANY
1411 Harney St. Omaha, Nebr.

RESIDENCE: Warwick Creek Dist.
P.O. OFFICE: Peneta I.T.

CHEROKEE Nation. Freedmen Roll.

CARD No. ____
FIELD No. R 6021

	NAME.	RELATIONSHIP.	AGE.	SEX.	INDIAN ENROLLMENT. TRIBE	INDIAN ENROLLMENT. DISTRICT	INDIAN ENROLLMENT. No.	SLAVE CH-	REMARKS.
1	Whitmore, William H.		44	M	N.C.	Coo	3013	RESERVATION CERTIFICATE	N.C. page 121
2	" Millie	Wife	42	F	Refused to enroll			ISSUED FOR No. 3 Oct 2 1906	Claims by intermarriage
3	" James H.	Son	18	M	N.C.	Coo	3016		N.C. page 121
4	" Jennette	Dau	16	F	N.C.	"	3017		N.C. " 121
5	" Richard A.	Son	14	M	N.C.	"	3018	RESERVATION CERTIFICATE ISSUED FOR No. 809 March 28 1906	N.C. " 121
6	" Amanda C.	Dau	12	F	N.C.	"	3019		N.C. " 121
7	" John B.	Son	10	M	N.C.	"	3020		N.C. " 121
8	" Ollie	Dau	8	F	N.C.	"	3021		N.C. " 121
9	" William R.	Son	5	M	N.C.	"	3022		See note
10									
11	REFUSED as to land Stg'me.								
12	ACTION APPROVED BY SECRETARY OF INTERIOR.								
13	MAR 27 1906								
14	REFUSED as to No. 2								
15	ACTION APPROVED BY SECRETARY OF INTERIOR.								
16	APR 17 1905								
17	Affd. in Dist. of Wellington Smith, Vinita I.T.								
18	See Dis. Card Nos. 617, 618, 625, 622, 869, 944.								
19	Date Issued Ltr. P.O. Dec. 481								

REJECTED

1	Whitmore, William				page 134	No. 3209	Coo	Dist.	
2	Son	Nelson			do	Jim	Robinson		
3	"	Jennette			"	"	"		
4	"	Charles			"	"	"		
5	"	Amanda			"	"	"		
6	"	Jesse			"	"	"		
7	"	Ollie			"	"	"		

JUN 21 1906 M.O. Sent for Rehearing filed
Nickly of Cherokee Nation filed Mar 1906
JAN 7 1907 Motion and Ord. to Cancel Card
Nickly for Right 674 Jones Ile 1901
FEB 13 1907 Motion and Ord. to Cancel
Nicy Lisk affidavit registered Title of Jesse Nickly 1901 March 15 1906

ADDITIONAL INFORMATION ON REVERSE SIDE

DEPARTMENT OF THE INTERIOR

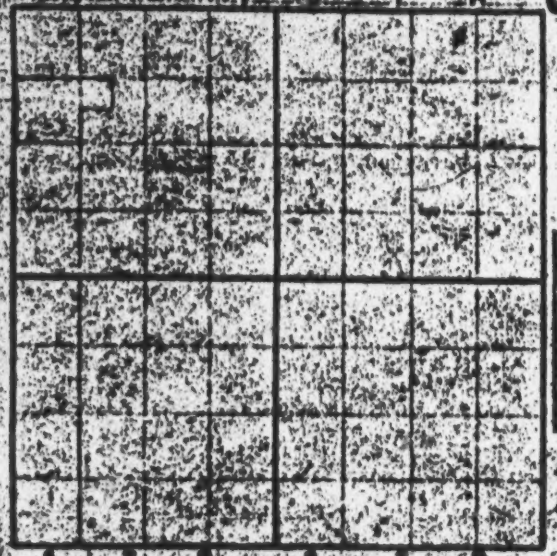
Roll Number

Cherokee Roll: | Freedmen Roll: 3446

Certificate of Homestead Allotment.

Certificate No. 81912

S. 14 T. 24 N. R. 17 E. I. M.



CHEROKEE LAND OFFICE

Tahlequah, I.T. May 1st 1905

This certifies that Sa Martin has this day selected the following described land as HOMESTEAD, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
SW¼ of NW¼ of SE¼ of NW¼	of 14	24	17

containing 5 0 acres, more or less as the same may be according to the United States Survey thereof. Total appraised value of land described in this certificate $ 125.00

This certificate is not transferable. Commission to the Five Civilized Tribes.

Chairman.

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 3-13-95

Notary Public

STANDARD BLUE PRINT COMPANY

DEPARTMENT OF THE INTERIOR
Commissioner to the five Civilized Tribes.

Roll Number

Cherokee Roll	Freedmen Roll
..	3447

Certificate of Allotment.

Certificate
No. 57647

S. 28 T. 22 N. R. 21 E. I. M.

CHEROKEE LAND OFFICE

Tahlequah, I.T. Oct 21st 1905

This certifies that Roy Martin has this day filed his selection of the following described land, viz:

SUB-DIVISION OF	SECTION	TOWN	RANGE
SE¼ of NE¼ of SE¼ of	28	22 N	21 E

containing 10 acres more or less as the survey thereof returned to the United States Surveyor the approximate value of land described in this certificate is $50.00

This certificate is not transferable.

Commissioner to the five Civilized Tribes.

CERTIFICATION

This is a true photographic copy with no additions, omissions, interlineations or alterations and is in keeping with original.

DATE 8/13/57

Notary Public

STANDARD BLUE PRINT COMPANY